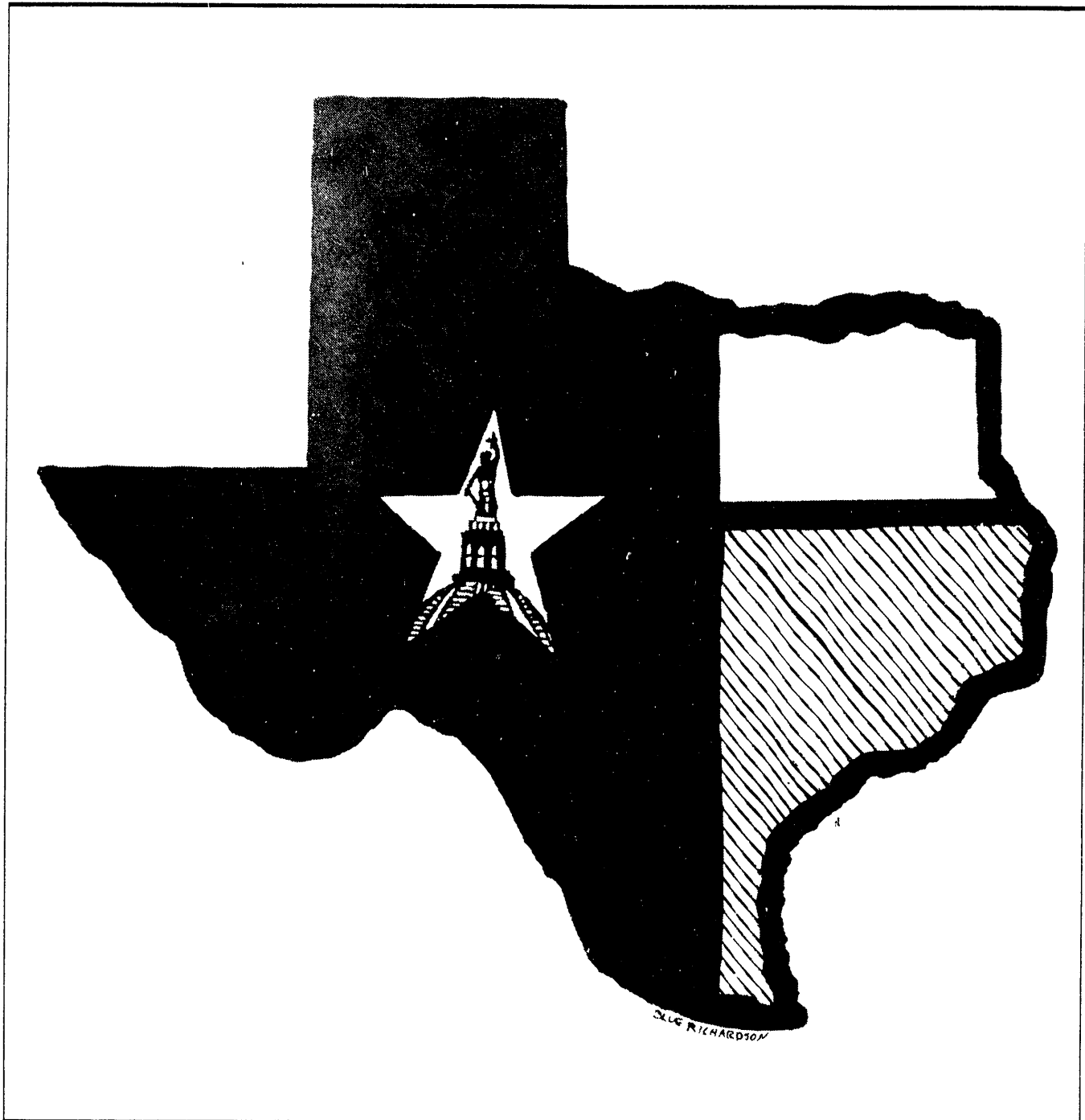


# Texas Register

Volume 12, Number 39, May 26, 1987

Pages 1679-1717



## Highlights

The **Texas Department of Agriculture** adopts on an emergency basis an amendment concerning special provisions for Cottle County under the Texas Herbicide Law. Effective date - May 19 . . . . . **page 1684**

The **Texas Department of Health** proposes amendments and new rules concerning abortion facility reporting and licensing, general re-

quirements for abortion facilities, and construction requirements for existing and new abortion facilities. Proposed date of adoption - July 31 **page 1688**

The **State Board of Insurance** adopts amendments concerning preparation and submission of individual life insurance and annuity forms. Effective date - June 10 . . . . . **page 1703**

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1987 with the exception of January 6, September 1, December 1, and December 29 by the Office of the Secretary of State.

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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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
- 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 accumulative quarterly and annual indexes to aid in researching material published.

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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: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 TexReg 3."

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## 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).



## Texas Register Publications

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# Table of Contents

---

## The Governor

### Appointments Made May 11

- 1629— Texas Health and Human Services Coordinating Council
- 1629— Texas Board of Mental Health and Mental Retardation
- 1629— Guadalupe-Blanco River Authority Board of Directors

### Executive Order

- 1629— WPC 87-9
- 1630— WPC 87-11

## Emergency Rules

### Comptroller of Public Accounts

- 1632— Tax Administration

## Proposed Rules

### Texas Education Agency

- 1633— Curriculum
- 1634— Budgeting, Accounting, and Auditing
- 1634— Teacher Education

### State Board of Dental Examiners

- 1654— Pertaining to Dentistry
- 1654— Extension of Duties of Auxiliary Personnel

### Texas Department of Health

- 1655— Community Health Services
- 1655— Veterinary Public Health
- 1656— Wastewater Surveillance and Technology

### Texas Department of Human Services

- 1656— ICF/SNF

## Withdrawn Rules

### Texas Department of Health

- 1658— Abortion Services

## Adopted Rules

### Texas Department of Agriculture

- 1659— Herbicide Regulations

### Texas Commission on the Arts

- 1659— Agency Procedures

### Texas Department of Labor and Standards

- 1660— Manufactured Housing Division

### State Board of Dental Examiners

- 1661— Dental Board Procedures

### Texas State Board of Plumbing Examiners

- 1661— Licensing
- 1661— Enforcement

### Texas Department of Health

- 1662— Hospital Licensing

### Texas Water Commission

- 1662— Watershed Protection

### Comptroller of Public Accounts

- 1663— Tax Administration

### State Board of Insurance

- 1664— Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

## Open Meetings

### 1665— Texas Air Control Board

### 1665— State Board of Barber Examiners

### 1665— Texas School for the Blind

### 1665— Texas Department of Community Affairs

### 1665— Texas School for the Deaf

### 1666— Texas Department of Health

### 1666— Texas Housing Agency

### 1666— Texas Industrial Accident Board

### 1666— State Board of Insurance

### 1667— Interagency Council on Early Childhood Intervention

### 1667— Texas Commission on Jail Standards

### 1667— Texas Department of Labor and Standards

### 1667— Lamar University System, Board of Regents

### 1667— Texas State Library and Archives Commission

### 1667— Natural Fibers and Food Protein Commission

### 1667— Board of Nurse Examiners

### 1667— Board of Pardons and Paroles

### 1668— Texas State Board of Physical Therapy Examiners

### 1668— State Property Tax Board

### 1668— Texas State Board of Public Accountancy

### 1668— Texas Department of Public Safety

### 1668— Public Utility Commission of Texas

### 1668— Railroad Commission of Texas

### 1669— Texas Savings and Loan Department

### 1669— State Securities Board

### 1669— Teacher Retirement System of Texas

### 1669— Texas State Technical Institute

### 1669— Texas Tech University

### 1670— Texas State Treasury

### 1670— Texas Water Commission

### 1670— Regional Agencies

## In Addition

### State Banking Board

- 1672— Notice of Hearing

### Texas Department of Community Affairs

- 1672— Consultant Contract Award

### Office of Consumer Credit Commissioner

- 1672— Notice of Rate Ceilings

### Texas Commission for the Deaf

- 1673— Consultant Proposal Request

### Texas Education Agency

- 1673— Consultant Proposal Request

- 1674— Notice of Proposed Grant Application for Fiscal Year 1987 Preschool Funds

### Texas Employment Commission

- 1674— Wagner-Peyser Funding Allocation for Employment Service Activities

Texas Department of Health  
1675— Request for Proposals

State Board of Insurance  
1675— Company Licensing

Texas State Board of Public Accountancy  
1676— Computer System Feasibility Study

Texas Department of Public Safety  
1676— Consultant Contract Award

Texas Real Estate Commission  
1677— Correction of Error

Veterans Land Board  
1677— Request for Proposals

Texas Water Commission  
1678— Enforcement Orders

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## TAC Titles Affected

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### TAC Titles Affected—May

The following is a list of the administrative rules that have been published this month.

#### TITLE 1. ADMINISTRATION

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

1 TAC §91.40 ..... 1440  
1 TAC §91.121 ..... 1537

#### TITLE 4. AGRICULTURE

##### Part I. Texas Department of Agriculture

4 TAC §§7.8, 7.11, 7.16, 7.24, 7.32, 7.33 ... 1593, 1603  
4 TAC §11.2 ..... 1659, 1684

#### TITLE 7. BANKING AND SECURITIES

##### Part II. Banking Department of Texas

7 TAC §12.6 ..... 1441  
7 TAC §12.7 ..... 1438, 1442

##### Part III. State Banking Board

7 TAC §31.7 ..... 1603

##### Part VI. Credit Union Department

7 TAC §91.402 ..... 1686  
7 TAC §97.112 ..... 1686  
7 TAC §91.211 ..... 1687

#### TITLE 13. CULTURAL RESOURCES

##### Part III. Texas Commission on The Arts

13 TAC §31.10 ..... 1659

#### TITLE 16. ECONOMIC REGULATION

##### Part I. Railroad Commission of Texas

16 TAC §1.112 ..... 1533, 1535  
16 TAC §5.431 ..... 1507  
16 TAC §5.451 ..... 1489  
16 TAC §11.221 ..... 1449

##### Part IV. Texas Department of Labor and Standards

16 TAC §65.17 ..... 1442  
16 TAC §69.27, §69.28 ..... 1660  
16 TAC §§69.52, 69.54, 69.62, 69.63 ..... 1660  
16 TAC §69.125 ..... 1660  
16 TAC §§69.201, 69.203, 69.204 ..... 1660

#### TITLE 19. EDUCATION

##### Part I. Coordinating Board, Texas College and University System

19 TAC §5.6 ..... 1604  
19 TAC §5.211 ..... 1596  
19 TAC §5.214 ..... 1597  
19 TAC §§11.01-11.06 ..... 1604  
19 TAC §§11.21-11.27 ..... 1604  
19 TAC §§11.41-11.55 ..... 1604  
19 TAC §17.1 ..... 1605  
19 TAC §17.30 ..... 1605  
19 TAC §§21.54, 21.57, 21.59-21.62, 21.64 ..... 1605  
19 TAC §21.126 ..... 1605  
19 TAC §21.259 ..... 1606  
19 TAC §21.288 ..... 1606  
19 TAC §§21.301-21.324 ..... 1607  
19 TAC §25.32 ..... 1597

#### Part II. Texas Education Agency

19 TAC §75.152 ..... 1633  
19 TAC §109.61 ..... 1634  
19 TAC §137.41 ..... 1634  
19 TAC §§137.501-137.511 ..... 1635  
19 TAC §137.512 ..... 1637  
19 TAC §§137.531-137.541 ..... 1638  
19 TAC §137.542 ..... 1639  
19 TAC §§137.551-137.559 ..... 1639  
19 TAC §§149.41-149.44 ..... 1443

#### TITLE 22. EXAMINING BOARDS

##### Part III. Texas Board of Chiropractic Examiners

22 TAC §71.13 ..... 1537  
22 TAC §75.1 ..... 1535  
22 TAC §77.2 ..... 1506

##### Part V. State Board of Dental Examiners

22 TAC §101.33 ..... 1654  
22 TAC §107.38 ..... 1661  
22 TAC §115.2 ..... 1654  
22 TAC §365.1 ..... 1661  
22 TAC §367.3 ..... 1661

##### Part XIV. Texas Optometry Board

22 TAC §279.1 ..... 1559  
22 TAC §279.7 ..... 1559

##### Part XVIII. State Board of Podiatry Examiners

22 TAC §378.2 ..... 1452

##### Part XII. Board of Vocational Nurse Examiners

22 TAC §231.93 ..... 1537

##### Part XXII. Texas State Board of Public Accountancy

22 TAC §511.70 ..... 1486, 1607  
22 TAC §513.62 ..... 1688  
22 TAC §519.27 ..... 1489

##### Part XXIII. Texas Real Estate Commission

22 TAC §§535.61, 535.63, 535.64, 535.66 ..... 1491

#### TITLE 25. HEALTH SERVICES

##### Part I. Texas Department of Health

25 TAC §1.91 ..... 1607  
25 TAC §§31.1-31.3 ..... 1559  
25 TAC §85.14 ..... 1655  
25 TAC §§89.4-89.8 ..... 1598  
25 TAC §119.3 ..... 1603  
25 TAC §133.21 ..... 1662  
25 TAC §139.2, §139.4 ..... 1658, 1688  
25 TAC §§139.13-139.17 ..... 1690  
25 TAC §§139.21-139.23 ..... 1658, 1693  
25 TAC §139.31, §139.32 ..... 1658, 1694  
25 TAC §§139.41-139.47 ..... 1658, 1696  
25 TAC §§169.61-169.65 ..... 1655  
25 TAC §289.125 ..... 1599  
25 TAC §§301.21-301.25 ..... 1656

#### TITLE 28. INSURANCE

##### Part I. State Board of Insurance

28 TAC §§3.1-3.9 ..... 1703  
28 TAC §5.4001 ..... 1486

28 TAC §5.4201 .....	1705	37 TAC §1.211 .....	1452
28 TAC §7.71 <sub>1684</sub> .....		37 TAC §27.11, §27.12 .....	1452
28 TAC §11.2 .....	1496, 1533	Part V. Board of Pardons and Paroles	
28 TAC §§11.102, 11.104-11.106, 11.108, 11.109 .....	496, 1533	37 TAC §141.5 .....	1601
28 TAC §§11.202-11.208 .....	1497, 1533	TITLE 40. SOCIAL SERVICES AND ASSISTANCE	
28 TAC §§11.301, 11.302, 11.304, 11.305 .....	1534, 1560	Part I. Texas Department of Human Services	
28 TAC §§11.501, 11.506, 11.508, 11.509 .....	1534	40 TAC §3.1201 .....	1508
28 TAC §§11.601, 11.603, 11.604 .....	1534	40 TAC §15.5403 .....	1453
28 TAC §§11.701, 11.705, 11.706 .....	1534	40 TAC §15.5801 .....	1565
28 TAC §11.802, §11.803 .....	1534	40 TAC §16.9802 .....	1656
28 TAC §11.1001 .....	1534	40 TAC §49.1903 .....	1601
28 TAC §11.1101, §11.1102 .....	1534	40 TAC §§85.7001-85.7005 .....	1538
28 TAC §11.1201-11.1206 .....		Part II. Texas Rehabilitation Commission	
TITLE 31. NATURAL RESOURCES AND CONSERVATION		40 TAC §§103.8, 103.9, 103.14 .....	1706
Part I. General Land Office		40 TAC §103.19 .....	1706
31 TAC §1.61 .....	1706	Part VI. Texas Commission for the Deaf	
Part II. Texas Parks and Wildlife Department		40 TAC §181.20 .....	1539
31 TAC §65.261 .....	1445	40 TAC §§183.1, 183.3, 183.5 .....	1539
31 TAC §§65.311-65.313 .....	1447	40 TAC §§183.11, 183.13, 183.15, 183.17, 183.19, 183.21, 183.23, 183.27, 183.29, 183.31, 183.33 .....	1540
31 TAC §65.500 .....	1486	40 TAC §183.25 .....	1536
Part IV. School Land Board		40 TAC §§183.55, 183.57, 183.59 .....	1541
31 TAC §155.10 .....	1506, 1500	40 TAC §183.65 .....	1541
Part IX. Texas Water Commission		40 TAC §183.75, §183.77 .....	1541
31 TAC §§311.51-311.55 .....	1662	40 TAC §§183.85, 183.87, 183.89, 183.91, 183.93 .....	1541
31 TAC §335.35 .....	1600	40 TAC §183.67 .....	1536
31 TAC §335.112 .....	1438	Part IX. Texas Department on Aging	
31 TAC §335.152 .....	1439	40 TAC §255.36 .....	1502
Part XVII. Texas State Soil and Water Conservation Board		40 TAC §255.37 .....	1563
31 TAC §519.9 .....	1507	40 TAC §265.1 .....	1504
TITLE 34. PUBLIC FINANCE		40 TAC §§289.1, 289.3, 289.5, 289.7, 289.9, 289.11, 289.13, 289.15, 289.17 .....	1453
Part I. Comptroller of Public Accounts		TITLE 43. TRANSPORTATION	
34 TAC §3.336 .....	1663	Part I. State Department of Highways and Public Transportation	
34 TAC §3.344 .....	1486	43 TAC §9.6 .....	1608
34 TAC §3.545 .....	1487	43 TAC §9.7 .....	1608
34 TAC §3.548 .....	1487, 1632	43 TAC §11.41 .....	1565
34 TAC §3.561 .....	1508	43 TAC §19.41 .....	1566
TITLE 37. PUBLIC SAFETY AND CORRECTIONS		43 TAC §25.91, §25.92 .....	1566
Part I. Texas Department of Public Safety		43 TAC §25.201, §25.202 .....	1568
37 TAC §§1.3-1.4 .....	1565	43 TAC §§25.501-25.506 .....	1609
37 TAC §1.129 .....	1600		

# 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 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 11. Herbicide Regulations

### ★ 4 TAC §11.2

The Texas Department of Agriculture adopts on an emergency basis, an amendment to §11.2, concerning the special provisions for Cottle County under the Texas Herbicide Law, Texas Agriculture Code, Chapter 75.

The department is acting upon a request made by the Cottle County Commissioners Court for a change of the dates during which the application of hormone herbicides is prohibited in Cottle County. The current prohibition period begins on June 10 and ends on October 15 of each year. The court has requested that the beginning date be changed to June 1. The department believes that the changing of the beginning date of the prohibition period to June 1 is both necessary and appropriate. The threat of exposure to hormone-type herbicides by susceptible crops, especially cotton, is greater than in prior years. This is due to the large number of acreage being converted from cropland to rangeland under the Conservation Reserve Program of the USDA. The increase in rangeland also means an increase in potential acres to be treated with hormone herbicides. In recent years, the department has received a number of complaints from individuals in Cottle County who alleged damage due to the spraying of hormone herbicides. The failure of the department to act to further limit the time in which hormone herbicides may be applied at this time could result in damage and economic loss to producers of susceptible crops in Cottle County.

The emergency amendment changes, at subsection (j), the beginning date for prohibition of the spraying of hormone herbicides in Cottle County from June 10 to June 1 of each year.

The emergency amendment is adopted under the Texas Agriculture Code, §75.018, which gives the Texas Department of Agriculture the authority to consider a re-

quest for a revision of a section, an exemption from a requirement of the Texas Herbicide Law, Chapter 75, or prohibition of spraying in an area, and after notice and hearing, adopt rules granting such a revision, an exemption or prohibition as the department deems appropriate; and Texas Civil Statutes, Article 6252, §13(a)(5) which provide for the adoption of administrative rules on an emergency basis without notice and counsel.

#### §11.2. *County Special Provisions.*

(a)-(j) (No change.)

(j) Cottle-The application of hormone-type herbicides is expressly prohibited between June 1[10] and October 15 of each year.

(h)-(jj) (No change.)

Issued in Austin, Texas, on May 18, 1987.

TRD-8704202

Dolores Alvarado Hibbs  
Director  
Texas Department of  
Agriculture

Effective date: May 19, 1987  
Expiration date: July 19, 1987  
For further information, please call  
(512) 463-7583.

★ ★ ★

## TITLE 28. INSURANCE Part I. State Board of Insurance Chapter 7. Corporate and Financial

### Subchapter A. Examination and Corporate Custodian and Tax

#### ★ 28 TAC §7.71

The State Board of Insurance adopts on an emergency basis an amendment to §7.71, concerning annual statement diskette filing requirements for financial activities by insurance companies and other entities regulated by the board. Section 7.71 requires that, in 1987, regulated entities must provide the board with machine-readable diskettes containing information concerning financial condition and business operations during the 1986 calendar year. This amendment is necessary in order to provide for a more timely

and reliable review of financial data from each entity's annual statement. Rapid and reliable review can produce fast action when necessary to maintain a regulated entity in sound financial condition that will protect policyholders and other consumers. The amendment will allow regulated entities an additional two months for preparing computerized data and filing the diskette with the board. An imminent peril to the public welfare requires adoption of this amendment on an emergency basis in order to provide for the proper functioning of administrative regulation of the business of insurance in Texas. This emergency amendment is necessary to enable the board to provide insurers and other entities with additional time sufficient for conversion of information from written annual statements into computerized data for the initial filing of similar information in diskette form.

This amendment is adopted on an emergency basis under the Insurance Code, Articles 1.04, 1.11, 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 17.22, 17.25, 18.12, 19.08, 20.02, 21.21, 21.43, 22.06, and 22.18; and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. Article 1.11 authorizes the board to make such changes in the forms of annual statements as shall seem best adapted to elicit a true exhibit of the condition and methods of transacting business of regulated entities. Article 21.21 prohibits any person engaged in the business of insurance from filing with any public official any false statement of financial condition of an insurer with intent to deceive. Article 21.43 requires that the provisions of the Insurance Code are conditions on which foreign insurance corporations are permitted to do business in this state. The Insurance Code, Articles 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 17.22, 17.25, 18.12, 19.08, 20.02, 22.06, and 22.18, requires the filing of annual statements, annual reports, and other information by certain entities regulated by the board; applies particular statutory law respecting reports to those entities; and specifies particular rulemaking authority relating to those entities. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state admin-

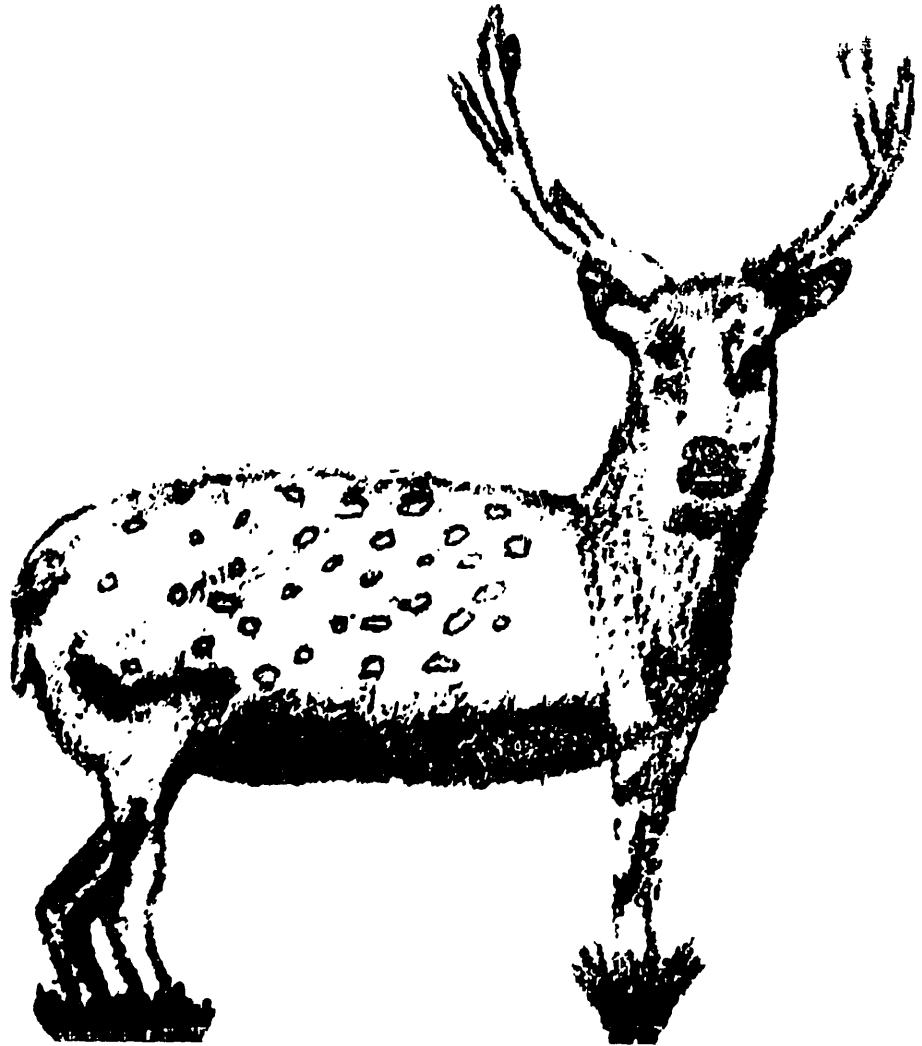
istrative agency to adopt rules of practice setting forth the nature and requirements of available procedures. Section 5 prescribes the procedure for adoption of rules by any state administrative agency.

§7.71. *Requirements for Annual Statement Diskette Filing in 1987 Concerning Financial Activities During 1986.*

(a) (No change.)

(b) Concerning activities during calendar year 1986, each and every stock life company, mutual life company, group hospital service corporation, and stipulated premium company shall provide the State Board of Insurance with machine-readable diskettes containing computerized financial data. In 1987, each of these entities shall file the diskette in addition to and at the time of filing its Form 1 annual statement with the board, or within **six months** [120 days] after the date for filing of its annual statement. The data on the diskette shall be in the form and content specified in the current annual statement diskette filing specifications for life, accident, and health. A copy of these specifications is attached to Board Order 49905, which adopts and incorporates by reference these specifications for compliance with this section. These specifications are published by the State Board of Insurance and may be obtained from the Corporate Custodian and Tax Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

(c) Concerning activities during calendar year 1986, each and every stock fire company, stock casualty company, stock fire and casualty company, mutual fire company, mutual casualty company, mutual fire and casualty company, county mutual company, Lloyds, and reciprocal shall provide the board with machine-readable diskettes containing computerized financial data. In 1987, each of these entities shall file the diskette in addition to and at the time of filing its Form 2 annual statement with the board, or within **six months** [120 days] after the date for filing of its annual statement. The data on the diskette shall be in the form and content specified in the current annual statement diskette filing specifications for fire and casualty. A copy of these specifications is attached to Board Order 49905, which adopts and incorporates by reference these specifications for compliance with this section. These specifications are published by the State Board of Insurance and may be obtained from the Corporate Custodian and Tax Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.



Name: Donald Galindo  
Grade: 12  
School: Haltom High School, Fort Worth

Issued in Austin, Texas, on May 19, 1987.

TRD-8704227      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: May 19, 1987  
Expiration date: September 16, 1987  
For further information, please call  
(512) 463-6327.

# 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 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations

##### Powers of Credit Unions

###### ★ 7 TAC §91.402

The Credit Union Department proposes an amendment to §91.402, concerning destruction of certain records after microfilming following an audit of such records.

John R. Hale, commissioner, 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. Hale 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 reduction of storage costs for credit unions. 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 Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461, §11.07, which provide the Credit

Union Department with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

###### §91.402. *Permanent Records.*

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

(c) Records which do not require the retention of originals may be destroyed after three years **or one year if microfilmed**, provided, that audits and verifications of accounts satisfactory to the board of directors were performed prior to the dates that the records are destroyed. These are as follows:  
(1)-(16) (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 May 18, 1987.

TRD-8704169      John R. Hale  
                                 Commissioner  
                                 Credit Union Department

Earliest possible date of adoption:

June 26, 1987

For further information, please call  
(512) 837-9236.

★                      ★                      ★

#### Chapter 97. Commission Policies and Administrative Rules

##### Supervision Fees

###### ★ 7 TAC §97.112

The Credit Union Department proposes an amendment to §97.112, concerning supervision fees paid by out-of-state credit unions operating branch offices in Texas. A standard annual fee will be required for each branch office.

John R. Hale, commissioner, 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. Hale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more equitable treatment of Texas credit unions operating branches in other states. The possible economic cost to individuals who are required to comply with the section as proposed will be negligible.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Department with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

###### §97.112. *Supervision Fees.*

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

(e) **Credit unions operating branch offices in Texas as authorized by §91.211 shall pay no annual supervision fee.**

(f)[(e)] The supervision fee schedule which is to be effective September 1, 1984, and thereafter is as follows.



Asset Size:	Fee:
Under \$100,000.....	\$10
\$100,000 to \$250,000.....	\$25
\$250,000 to \$500,000.....	\$50
\$500,000 to \$750,000.....	\$75
\$750,000 to \$1 million.....	\$100
\$1 million to \$1.5 million.....	\$200
\$1.5 million to \$2 million.....	\$300
\$2 million to \$3 million.....	\$400
\$3 million to \$4 million.....	\$500
\$4 million to \$5 million.....	\$600
\$5 million to \$6 million.....	\$700
\$6 million to \$7 million.....	\$800
\$7 million to \$8 million.....	\$900
\$8 million to \$10 million.....	\$1,000
\$10 million to \$15 million.....	\$1,250
\$15 million to \$20 million.....	\$1,500
\$20 million to \$40 million.....	\$2,000
\$40 million to \$60 million.....	\$3,000
\$60 million to \$80 million.....	\$4,000
\$80 million to \$100 million.....	\$5,000
\$100 million to \$150 million.....	\$6,000
\$150 million to \$200 million.....	\$7,000
\$200 million to \$250 million.....	\$8,000
\$250 million to \$300 million.....	\$9,000
\$300 million and over.....	\$10,000*

\*PLUS \$1,000.00 FOR EACH ADDITIONAL \$50 MILLION IN ASSETS ABOVE THE \$300 MILLION ASSET LEVEL.

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 May 18, 1987.  
 TRD-8704170      John R. Hale  
                                  Commissioner  
                                  Credit Union Department

Earliest possible date of adoption:  
 June 26, 1987  
 For further information, please call  
 (512) 837-9236.

★            ★            ★

**Organization Procedures**

**★7 TAC §91.211**

The Credit Union Department proposes an amendment to §91.211, concerning fidelity bond coverage for out-of-state credit unions operating branch offices in Texas. The requirement will be changed to permit the regulatory agency of the state in which the credit union was incorporated to determine the requirement.

John R. Hale, commissioner, 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. Hale 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 enhance the ability of Texas chartered credit unions to branch out of state. The possible economic cost to individuals who are required to comply with the section as proposed will be negligible.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin,

Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Department with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.211. Foreign State Credit Union Branch Offices.

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

(c) In order to protect the interests of the citizens of the State of Texas, the commissioner shall approve the application if he finds that the applicant:

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

(4) has in force, fidelity bond coverage as required by the state in which the credit union was incorporated [comparable to that required of credit unions chartered by the State of Texas pursuant to the Act, §5.06(b) and §91.506 of this title (relating to Compensation and Bond Requirements)];

(5)-(11) (No change.)

(d)-(g) (No change.)

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

Issued in Austin, Texas, on May 18, 1987.

TRD-8704168 John R. Hale  
Commissioner  
Credit Union Department

Earliest possible date of adoption:  
June 26, 1987  
For further information, please call  
(512) 837-9236.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 513. Registration of Offices

★22 TAC §513.62

The Texas State Board of Public Accountancy proposes an amendment to §513.62, concerning resident in charge. The amendment provides requirements for the resident manager/licensee in charge of branch offices or main offices of firms licensed with the Texas State Board of Public Accountancy.

Bob E. Bradley, executive director, 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. Bradley 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 firm establishment of the supervisory responsibility of the resident person in charge. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding the resident manager/licensee in charge of branch offices or main offices of firms licensed with the Texas State Board of Public Accountancy.

§513.62. Resident Person In Charge [Application]. The application for registration of an office shall state that the resident person in charge of an office identified as the office of a certified public accountant is a certified public accountant of Texas, and that the resident person in charge of an office identified as the office of a public accountant is a certified public accountant or a public accountant of Texas. The resident person in charge of a public accounting office need not be a partner, incorporator, stockholder, officer, or director, but the person in charge must hold a license issued under the Act. No one person may be in charge of more than one office at the same time, and each person designated as the resident person in charge of an office must, in fact, have overall charge of and responsibility for the office during all hours of operation. A resident person in charge of an office is the person who is directly responsible for management and supervision of the professional services of the office. As used herein, supervision means on-site instruction, direction, review, and evaluation of all the professional services performed in the office. Mere availability of the resident person in charge of an office (as by telephone) does not qualify as supervision.

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 May 15, 1987.

TRD-8704218 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption:  
June 26, 1987  
For further information, please call  
(512) 450-7041.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 139. Abortion Facilities

Subchapter A. Abortion Facility Reporting and Licensing

[Abortion Facility Reporting and Licensing]

★25 TAC §139.2, §139.4

The Texas Department of Health proposes amendments to existing §139.2 and §139.4 and new §§139.13-139.17, concerning abortion facility reporting and licensing, new §§139.21-139.23, concerning general requirements for abortion facilities, new §139.31 and §139.32, concerning existing abortion facilities, and new §§139.41-139.47, concerning new construction requirements for abortion facilities. Due to the significance of the public comments received from the proposals published in the December 5, 1986, issue of the Texas Register (11 TexReg 4887-4898), the department repropose the amendments and new sections based on substantive changes.

The amendment to §139.2 adds two definitions.

The amendment to §139.4 prohibits the solicitation of referrals by division of fees. The amendment to §139.4 also requires written post abortion care instructions, require facilities to display their license, and requires instructions on registering complaints to be provided to the patient or the legal guardian at the time of admission.

The new sections address equipment for local anesthesia, clinical standards for general anesthesia, exemption provisions, life safety, and maintenance for exempt facilities. Construction, design, and fire safety of new and existing facilities administering general anesthesia.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the amendments and new sections as proposed will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government is an estimated additional cost of \$8,000 for the first year and \$1,200 for each year of the remaining four-year period. There will be no effect on local government. The cost of compliance with the amendments and new sections for small businesses will be approximately \$10,000 to \$100,000. This will be an initial one time cost to bring existing licensed facilities into compliance with construction and fire safety. The department is unable to project the cost for building a new abortion facility to meet construction and fire safety requirements. The estimated cost for an exempted facility

ty to comply with the fire safety and maintenance requirements would range from \$1,200 to \$17,000. A nonexempt facility would have an estimated cost of compliance per employee as a small business of \$16,250 compared to the estimated cost of compliance per employee for a larger business which is \$2,826. An exempted facility would have an estimated cost of compliance per employee as a small business of \$2,275 compared to the estimated cost of compliance per employee for a large business which is \$395.65.

Mr. Seale also has determined that for each year of the first five years the amendments and new sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections will be increased patient health and safety due to construction, fire safety, additional staff, and specific clinical standards for abortion facilities using general anesthesia. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Juanita Carrell, R.N. Ed.D., Director, Health Facility Licensure and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Comments will be accepted for 30 days from the date of publication of the proposed sections.

In addition, a public hearing will be held on 9 a.m. Monday, June 15, 1987, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

The amendments and new sections are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4512.8, §3, which provide the Texas Board of Health with the authority to adopt rules covering abortion facilities.

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

**General anesthesia—A controlled state of unconsciousness accomplished by partial or a complete loss of protective reflexes including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command produced by a pharmacological or nonpharmacological method or combinations thereof. This is not inclusive of nitrous oxide administered for analgesia purposes only.**

**IV sedation—A depressed level of consciousness that retains the patient's ability to independently or continually maintain an airway and to respond appropriately to physical stimuli or verbal command produced by a pharmacological or nonpharmacological method or a combination thereof.**

**§139.4. Standards for All Licensed Abor-**

**tion Facilities [Licensure of an Abortion Facility].** In addition to complying with all applicable federal, state, and local laws and regulations, **all [a] licensed abortion facilities [facility] and their [its] staffs[staff] shall meet the following standards.**

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

**(5) The solicitation of referrals by division of fees under any guise by an abortion facility from other facilities, organizations, or individuals shall be prohibited and will be considered a violation of these rules.**

**(6) [(5)]** The facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of **five [two]** years.

**(7) [(6)]** The facility shall maintain a clinical record for each patient which is maintained according to professional standards. Identifying information required for the annual abortion report should be readily retrievable from the clinical record.

**(8) [(7)]** The clinical record shall contain: patient identifying information; name of physician; diagnosis; history and physical; laboratory reports; tissue reports; allergies/drug reactions; physicians's orders; clinical notes; counseling notes; signed patient consent form; medication administration records; and discharge summary. If the results of medical examination and/or written referral is obtained, the document(s) will be incorporated in the clinical record. All pharmaceutical agents administered shall be timed, dated, and signed by the person making the entry.

**(9) [(8)]** Clinical records for adults shall be retained for five years from the time of discharge and clinical records for minors shall be retained five years past the age the patient reaches majority. All clinical records shall be safeguarded against loss and unofficial use.

**(10) [(9)]** An abortion shall be performed only by a physician as defined by the provisions of the Texas Medical Practice Act, Texas Civil Statutes, Article 4495b.

**(A)** The patient care service of the abortion facility must be provided under the direction of a physician or registered nurse who assume responsibility for employees performance in the abortion facility. A registered nurse or licensed vocational nurse must be in the abortion facility whenever there is a patient in the operating room or recovery room.

**(B)** Professional and nonprofessional personnel providing patient care in the facility should be given the training and orientation period appropriate to the needs and level of preparation as required by the individual job description. Job descriptions for licensed personnel shall require CPR training.

**(11) [(10)]** The attending physician shall be responsible for obtaining and documenting an adequate preoperative history, physical exam, and appropriate laboratory studies, including verification of

pregnancy.

**(12) [(11)]** Counselors must be qualified by education and/or training to provide counseling services. Appropriate counseling shall be provided to each patient to:

**(A)** establish that the patient understands the nature and consequences of the procedure and recognizes alternatives to abortions. If the patient consents to the procedure, a consent form shall be signed by the patient;

**(B)** prepare the patient for surgery in a manner that facilitates her safety and comfort; and

**(C)** assist the patient in reaching a decision about the method of post-procedure birth control she will use, if any, and respect her choices.

**(13) [(12)]** Operative care shall be provided according to acceptable surgical standards.

**(14) [(13)]** The recovery room(s) at the facility must be supervised by a physician or registered nurse.

**(15) [(14)]** A physician must be immediately available for the facility while any patient is in the recovery room.

**(16) [(15)]** A patient must be fully reactive and her vital signs must be stable before she can be discharged from the facility by written order of the attending physician.

**(17) [(16)]** Prior to discharge, **written verification of discharge teaching that includes [a patient shall receive adequate] post-abortion care instructions and information regarding possible complications shall be provided to the patient, and a copy of the instructions signed by the patient shall be included in the patient record.**

**(18) [(17)]** The facility shall make provision for a post-abortion examination or referral.

**(19) [(18)]** All fetal tissue must be examined grossly at the time of the procedure by the attending physician or a trained assistant under the supervision of a physician. The results of the tissue examination shall be recorded in the patient's chart.

**(20) [(19)]** In the absence of visible fetal parts or placenta, the tissue may be examined under a low power microscope for the detection of villi. If this examination is inconclusive, the tissue shall be sent to a pathology lab.

**(21) [(20)]** Tissue not sent to a laboratory shall be disposed of according to state and local regulations and ordinances.

**(22) [(21)]** The facility must have a readily accessible written protocol for managing medical emergencies and/or the transfer of patients requiring further emergency care to a licensed hospital. The abortion facility shall ensure that the physicians who practice at the facility have admitting privileges or have a working arrangement with a physician(s) who has admitting privileges at a local hospital in order to ensure the necessary back-up for medical compli-

cations.

(23)[(22)] The facility must be in compliance with all state and federal laws pertaining to handling of drugs.

(24)[(23)] The facility must have the necessary equipment and gases for artificial ventilation and for cardio and pulmonary resuscitation.

(24) The facility must have at a minimum, the following emergency equipment:

[(A) oxygen;

[(B) airways and manual breathing bag; and

[(C) emergency drugs and supplies, as specified by the physician(s).]

(25)-(28) (No change.)

(29) Each facility shall prominently and conspicuously post the license issued under this Act for display in a public area of the facility that is readily accessible to patients, employees, and visitors.

(30) All licensed abortion facilities are required to provide the patient and/or her guardian at time of admission a written statement identifying the department as the responsible agency for abortion facility complaint investigations. The statement shall inform persons to register complaints with the Director, Health Facility Licensure and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Complaints must be registered with the department in writing. A complainant must provide his/her name. All complaints are confidential.

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 May 19, 1987.

TRD-8704232 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

July 31, 1987

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

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### ★ 25 TAC §§139.13-139.17

The new sections are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4512.8, §3, which authorize the Texas Board of Health to adopt rules covering abortion facilities.

*§139.13. Clinical and Equipment Standards for Licensed Facilities Administering Local Anesthesia.*

(a) The facility must have at a minimum, the following emergency equipment for local anesthetic only:

(1) oxygen;

(2) mechanical ventilatory assistance equipment that includes airways and manual breathing bag;

(3) emergency drugs as specified by the physician(s) on staff; and

(4) oral suction capabilities.

(b) The facility shall comply with the following.

(1) Anesthetics administered in an abortion facility may include local infiltration of the cervix and pre-operative sedation.

(2) IV sedation may be administered as defined in §139.2 of this title (relating to Definitions).

### *§139.14. Clinical and Equipment Standards for Licensed Facilities Administering General Anesthesia.*

(a) General. All licensed facilities, exempt and nonexempt that administer general anesthesia as defined in these regulations shall comply with the following additional requirements for patient health and safety.

(1) Quality Assurance Program. The abortion facility must have a written and ongoing quality assurance plan that includes all health and safety aspects relating to general anesthesia. The program must include a review of the quality and appropriateness of care as they relate to general anesthesia. The quality assurance program must include but is not limited to:

(A) review of the physical exam, history, laboratory work and other pertinent clinical data;

(B) risk assessment criteria to evaluate and identify patients that are at risk for general anesthesia;

(C) preventive maintenance program for all equipment used for general anesthesia and all emergency equipment;

(D) review of all post-operative complications and review of post-operative infections;

(E) quarterly assessment of the anesthesia services in order to identify and resolve important problems in patient care.

(2) Pre-anesthetic requirements. Pre-anesthetic requirements shall include documentation of:

(A) patients drug usage history;

(B) past anesthesia experiences;

(C) complete history and a physical examination by a physician immediately prior to surgery to evaluate the risks of the procedure and general anesthesia;

(D) review of pre-operative laboratory and x-ray studies;

(E) a signed informed consent that includes the risks of anesthesia, type of anesthesia to be administered and the name of the anesthetist or anesthesiologist, and any risk factors specific for each patient.

(3) Post-anesthetic requirements. Post-anesthetic requirements shall include the following.

(A) The patient's record must include a post-anesthetic evaluation note by the anesthetist or anesthesiologist before the patient is discharged.

(B) Patients can be discharged by a physician order only after the patient is evaluated by the physician.

(C) All patients are discharged in the company of a designated individual. The patient's records state with whom the patient was discharged.

(4) Laboratory and radiology services. The facility must have a procedure for obtaining routine and emergency laboratory and radiological services to meet the needs of the patients. Results of laboratory and radiological tests must be available in the facility. If any laboratory or radiological services are provided in the facility, these services must be included in the quality assurance program.

(5) Staffing requirements. Staffing requirements shall include the following.

(A) A registered nurse must be in or immediately available to the operating room or procedure room during a procedure when general anesthesia is administered. Licensed vocational nurses (LVN) and surgical technicians may assist in circulatory duties under the supervision of a qualified registered nurse (RN). If an anesthetist is administering anesthesia he or she cannot assume this staffing requirement.

(B) An RN or LVN must be in the recovery area to supervise and provide patient care during the recovery period.

(C) A person qualified to administer general anesthesia must be in the facility or immediately available during the recovery period.

(D) Administration of general anesthesia shall be limited to:

(i) board certified or board eligible anesthesiologist;

(ii) a physician approved by the governing body; and

(iii) certified registered nurse anesthetist.

(6) Equipment. The facility must have the following equipment and supplies:

(A) cardiac monitor;

(B) defibrillator;

(C) ventilator;

(D) anesthesia machine;

(E) emergency drugs and supplies as specified by the attending physician(s) and approved by the governing body;

(F) tracheostomy set;

(G) laryngoscopes and endotracheal tubes; and

(H) chest tubes and water seal bottles.

(7) Clinical record. The clinical record shall include:

(A) pre- and post-anesthesia evaluation by anesthetist or anesthesiologist;

(B) informed consent for general anesthesia;

(C) record of anesthesia administration; and

(D) laboratory and radiological studies if ordered.

(b) Personnel. Personnel trained in the use of all emergency equipment must be

present on the premises of the facility when there is a patient in the operating room or recovery room.

(c) Policy and procedure. The facility must have an effective policy and procedure for inspection and maintenance of emergency equipment, supplies, and drugs.

(d) Clinical records. The patient's record must indicate a negative or positive response to drugs, i.e., allergic reaction, prescribed and used before, during, or after the procedure.

(e) Patient discharge. Patient discharge must be by physician order based upon:

(1) physician observation at the time of discharge or;

(2) patient assessment by a licensed nurse based upon discharge criteria set by the physician.

*§139.5. Standards for Licensed Facilities Requesting Exemption From Construction Standards.*

(a) Abortion facilities that use a type of anesthesia other than local infiltration of the cervix and pre-operative sedation may request an exemption or waiver from meeting the construction requirements for facilities that provide general anesthesia.

(b) If a person or facility desires to request an exemption from the construction standards described in §§139.21-139.23, 139.31, 139.32, 139.41-139.47 of this title (relating to General Construction Requirements for Abortion Facilities, Existing Abortion Facilities, and New Construction Requirements for Abortion Facilities) a written claim for exemption including supporting documentation may be submitted to the department. The documentation must include a notarized affidavit attesting to the fact that:

(1) the anesthesia administered in this facility does not meet the definition of general anesthesia as defined in these regulations with one exception; the patient may not be able to respond to verbal command for a period of no longer than five to 15 minutes; and

(2) that the patient can be quickly evacuated from the premises in case of fire or other disaster without hazard to their health and safety.

(c) Upon request by a facility, the affidavit form will be provided by the department.

(d) Documentation supporting the following considerations are to be submitted to the department in conjunction with the affidavit:

(1) the type of physical plant the abortion facility is located; single or multi-story. What is the accessibility to stairways and fire exits from the procedure and recovery room(s) of the abortion facility? Documentation submitted may include blueprint;

(2) the number of patients anesthetized at the same time and the num-

ber of patients in the recovery room(s) at the same time;

(3) the length of the anesthesia;

(4) the length of time for recovery from the anesthesia;

(5) the patient's ability to ambulate with or without assistance immediately following the anesthesia;

(6) number of staff on duty to assist with evacuation of patients.

(e) The director shall evaluate the claim for exemption and notify the person or facility in writing of the proposed decision within 90 days following the receipt of the exemption. The department may conduct an on-site inspection to investigate the claims filed by the facility for exemption. Periodic inspections may be conducted to substantiate that claims for exemption previously granted remain in effect.

(f) If the proposed decision is to grant the claim for exemption, the department will provide the written notice according to subsection (e) of this section. If the claim for exemption is denied, the person or facility shall have the right to appeal the determination to the director by written letter with the additional reasons for the exemption within 10 days following the receipt of the proposed denial. If necessary, in order to make a decision on the appeal, an on-site visit may be made to the facility by the director or a qualified member of the department staff.

(g) If the person or facility does not request an appeal as provided in this subsection, the right to appeal is deemed to be waived and the denial of exemption becomes final within 30 days following the person or facility's receipt of the proposed denial.

(h) The person or facility must cease using general anesthetics as defined in these regulations or move to a building that meets the construction requirements within 30 days after the denial becomes final.

(i) In the event that a person or facility does not comply as required by this section, the provision of §139.12(e) and (g) of this title (relating to License, Denial, Suspension, or Revocation) will govern.

*§139.16. Life Safety and Maintenance Standards for Licensed Facilities Granted An Exemption.*

(a) Minimum standards.

(1) All licensed abortion facilities granted an exemption status from construction requirements in §§139.21-139.23, 139.31, 139.32, 139.41-139.47 (relating to General Construction Requirements for Abortion Facilities, Existing Abortion Facilities, and New Construction Requirements for Abortion Facilities) shall comply with the minimum requirements in this section. All references to codes and standards in this section (e.g., NFPA 101) are described in §139.23 of this section (relating to Codes and Standards).

(2) Means of egress is that all hallways, stairs, and other means of egress shall be adequately lighted and kept free of ob-

struction at all times in accordance with NFPA 101, Life Safety Code.

(b) Safety. The abortion facility shall have written plans for the timely care of casualties arising from both external and internal disasters, and shall document the rehearsal of these plans.

(c) Fire protection. Fire protection shall be provided in accordance with the requirements of NFPA 101 and paragraph (5) of this subsection. Approval of the fire protection of an abortion facility by the local fire department shall be a prerequisite for licensure.

(d) Smoking regulations.

(1) The abortion facility shall establish and regulate a policy for smoking and it shall include the minimal provisions of NFPA 101 (31-4.4).

(2) No smoking signs shall be posted in the corridors of operating, recovery room suites, and in all other areas where inhalation therapy may be in use. In addition, no smoking signs shall be prominently displayed in areas where flammable liquids or gases are stored and in areas of combustible storage.

(e) Portable fire extinguishers. Every portable fire extinguisher maintained in or upon abortion facility property shall be installed and maintained in accordance with NFPA 10 and NFPA 101. Travel distance to a fire extinguisher shall not exceed 75 feet.

(f) Fire protection and evacuation plan.

(1) An approved plan for the protection of patients in the event of fire and their evacuation from the building when necessary shall be formulated. This plan shall be reduced to writing with an evacuation floor plan posted in places conspicuous to patients and staff. All employees shall be instructed and kept informed regarding their duties under the fire protection and evacuation plan.

(2) The abortion facility shall formulate an annual training program for instruction of all personnel in the use of fire-fighting equipment.

(3) Fire drills shall be as follows.

(A) All personnel shall be familiar with the locations of fire-fighting equipment. There shall be a fire drill of personnel as required by NFPA 101, including the turning in of alarms, simulated evacuation of patients and other occupants, and the use of equipment.

(B) Fire drills shall be held quarterly.

(4) The abortion facility shall have an approved manual fire alarm system. A dedicated telephone line or other suitable alarm-sending device shall be provided as a means of automatically communicating an alarm of fire to the fire department (or other approved off-site 24-hour monitoring service).

(5) The abortion facility shall meet local fire department access requirements.

(g) Storage and housekeeping.

(1) All storage space shall be kept clean and orderly at all times. No storage shall extend higher than 18 inches below the bottom of ceiling, structure, or sprinkler heads.

(2) When basements, storerooms, or attics are used for combustible storage, they shall meet the applicable requirements listed in §139.44 of this title (relating to Design Requirements).

(3) Local supplies of paints, oils, and highly volatile combustible liquids shall be kept in metal cabinets having tight closing doors and drip pans. These cabinets must be well-ventilated at top and bottom.

(4) The entire premises shall be kept free from accumulations of combustible materials not necessary for immediate operation of the building.

(h) Testing and maintenance.

(1) The abortion facility structure, its component parts, and facilities shall be kept in good repair and maintained with consideration for the safety of the occupants of the building. Mechanical, plumbing, and electrical equipment shall be maintained in good repair and operating condition at all times. Physical plant equipment, medical, and surgical equipment shall be tested and maintained under a formal preventive maintenance and testing program and documentation kept for annual reviews and/or inspections.

(2) All elevator equipment must be tested as required by §139.44 (o) of this title (relating to Design Requirements)

(i) Gas appliances.

(1) The installation, use, and maintenance of gas fired cooking appliances, heating equipment, and gas piping, including venting shall comply with the National Fire Protection Association's Pamphlet No. 54, National Fuel Gas Code. The use of portable gas heaters is prohibited.

(2) The use of unvented open flame heaters is specifically prohibited.

(3) All hot water heaters shall be equipped with an approved temperature pressure relief valve.

(4) All direct-fired heating units shall be designed to permit the discharge of the products of combustion into a flue or vent and all such units shall be properly vented to a vertical flue or chimney leading to the outer air above the high point on the roof. Direct-fired heating units shall not be permitted in any operating room, or in any other room where combustible vapors may be present.

(j) Heating. Heating shall be provided for all areas of the abortion facility to meet prevailing weather conditions and shall have the capability of maintaining a minimum temperature of 72°F. All heating units and systems shall meet local and state regulations.

(k) Wiring and electrical appliances.

(1) New installations, corrections of defects, and system maintenance shall follow the recommendations of the National Elec-

trical Code, NFPA 70.

(2) All fixtures, switches, sockets, and other pieces of apparatus shall be maintained in a safe and workable condition.

(3) All cord-connected equipment shall be plugged directly into a wall receptacle using the cord furnished with the equipment. The use of extension cords is prohibited.

(4) All electrical outlets shall be simplex or duplex outlets or UL approved multiple outlet assemblies. The use of a plug-in multiple outlet assembly is prohibited.

(5) Surface mounted wiring installed on walls or partitions should be protected from mechanical injury to a height of seven feet above the floor.

(6) All wires through walls, floors, partitions, and building members shall be installed in approved metal sleeves or in approved conduit.

(7) All electrical heating devices shall be equipped with a pilot light to indicate when the device is in service, unless equipped with a temperature limiting device integral with the heater.

(8) All equipment, fixtures, and appliances shall be properly grounded in accordance with NFPA 70, National Electrical Code.

(l) Lighting. There shall be adequate illumination of the operative field as well as general illumination. All means of egress such as hallways, corridors, stairways, exterior exit doors, inclines, ramps, and entrances shall be well lighted in order to prevent accidents.

(m) Emergency power. To provide electricity during an interruption of the normal electrical supply, an emergency source of electricity shall be provided. It shall be capable of supplying a limited amount of lighting and power considered essential for life safety and orderly cessation of procedure during the time normal electrical service is interrupted.

(1) Emergency system connections shall supply power for:

(A) necessary items required for all resuscitative equipment and suction systems serving medical/surgical functions;

(B) nurse calling system, telephone system, or paging system if intended for communications during emergency conditions;

(C) task illumination and selected receptacles in treatment rooms;

(D) alarm systems; and

(E) illumination of exit signs and means of egress lighting.

(2) Alternate source areas are as follows.

(A) The emergency system shall have an alternate source of power separate and independent from the normal source that will be effective for a minimum of 1½ hours after loss of normal power source.

(B) The alternate source of power for the system shall be specifically designed for this purpose and shall be either

an engine driven generator, battery system, or self-contained batteries integral with the equipment served.

(3) Operation requirements are as follows.

(A) The emergency system shall be so arranged that in the event of failure of normal power, the alternate source shall be automatically connected to the load within 10 seconds.

(B) Battery systems shall meet all requirements of §700-6(a) of NFPA 70-1978 National Electrical Code.

(C) Generator systems shall meet the requirements of Chapter 6 NFPA 76A-1977.

(D) Retransfer to the normal source shall be automatic upon restoration of normal power.

(E) Electrical receptacles on an emergency system shall be distinctively colored or marked so as to be readily identifiable.

(n) Plumbing.

(1) New installations, correction of defects, and system maintenance shall all follow the recommendations of the National Standard Plumbing Code.

(2) When a municipal water supply is not available, the water shall be tested at monthly intervals in accordance with the standards promulgated by state regulations.

(3) The plumbing system shall be free from cross-connections and interconnections between a safe water supply and one which is subject to contamination, or between a safe water supply and sewage, waste water, drainage, condensates, previously used water, contents of plumbing fixtures, or any other contaminated material.

§139.17. *Standards for Non-exempt Licensed Facilities Administering General Anesthesia.* In addition to the requirements in §139.4 of this title (relating to Standards for all Licensed Abortion Facilities), licensed abortion facilities that provide general anesthesia services as defined in §139.2 of this title (relating to Definitions) must also meet all the requirements of §§139.21-139.23, 139.31, 139.32, and 139.41-139.47 of this title (relating to General Construction Requirements for Abortion Facilities, Existing Abortion Facilities, and New Construction Requirements for Abortion Facilities).

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 May 18, 1987.

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Robert A. MacLean  
Deputy Commissioner  
Texas Department of  
Health

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

Subchapter B. General  
Construction Requirements for  
Abortion Facilities

[General Construction  
Requirements for Abortion  
Facilities]

★ 25 TAC §§139.21-139.23

The new sections are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4512.8, §3, which authorizes the Texas Board of Health to adopt rules covering abortion facilities.

§139.21. *Location.* This facility may be located in a separate free-standing structure, or it may be located within an office building.

§139.22. *Services.*

(a) Abortion facilities shall contain, but not be limited to, all the elements described herein, or the policies shall indicate the manner in which the services are to be made to the outpatient.

(b) The elements of an abortion facility shall be located and arranged to preclude unrelated traffic through the suite, to separate patient traffic from staff and material handling traffic.

(c) Facilities shall be available and accessible to the physically handicapped (public, staff, and patients). See §139.41(a)(2) of this title (relating to Application of Standards).

(d) The design of the facility shall provide for the privacy and dignity of the patient during interview, examination, treatment, and recovery.

§139.23. *Codes and Standards.*

(a) Generally, the following codes and standards are part of §139.31 and §139.32 of this title (relating to Existing Abortion Facilities) and §§139.41-139.47 of this title (relating to New Construction Requirements for Abortion Facilities) only when referenced in the sections. Existing facilities which do not comply with the codes and standards may not continue to provide service until replaced or renovated to prevent posing a serious hazard to the patients.

(1) National Fire Protection Association standards:

(A) NFPA 10—1981, Standard for Portable Fire Extinguishers;

(B) NFPA 13—1980, Standard for the Installation of Sprinkler Systems;

(C) NFPA 13 A—1981, Care and Maintenance of Sprinkler Systems;

(D) NFPA 54—1980, National Fuel Gas Code;

(E) NFPA 56 A—1978, Standard for the Use of Inhalation Anesthetics;

(F) NFPA 56 F—1983, Standard for Fire Extinguishing Systems;

(G) NFPA 56 K—1980, Standard for Medical Surgical Vacuum Systems;

(H) NFPA 70—1984, National

Electric Code;

(I) NFPA 72 A—1979, Standard for the Installation, Maintenance, and Use of Local Protective Signaling Systems for Guard's Tour, Fire Alarm, and Supervisory Service;

(J) NFPA 72 B—1979, Standard for Installation, Maintenance, and Use of Auxiliary Protective Signaling Systems for Fire Alarm Services;

(K) NFPA 72 C—1982, Standard for the Installation, Maintenance, and Use of Remote Station Protective Signaling Systems;

(L) NFPA 72 D—1979, Standard for the Installation, Maintenance, and Use of Proprietary Protection Signaling Systems;

(M) NFPA 76 A—1977, Essential Electrical Systems for Health Care Facilities;

(N) NFPA 80—1983, Standard for Fire Doors and Windows;

(O) NFPA 82—1983, Standard on Incinerators Waste and Linen Handling Systems and Equipment;

(P) NFPA 90 A—1981, Installation of Air-Conditioning and Ventilating Systems;

(Q) NFPA 91—1981, Standard for the Installation of Blower and Exhaust Systems;

(R) NFPA 99—1984, Standard for Health Care Facilities;

(S) NFPA 101—1981 Code for Safety to Life from Fire in Buildings and Structures;

(T) NFPA 220—1979, Standard for Types of Building Construction and Materials;

(U) NFPA 255—1979, Method of Test of Surface Burning Characteristics of Building Materials;

(V) NFPA 325 M—1977, Fire Hazard Properties of Flammable Liquids, Gases, and Volatile Solids;

(W) NFPA 701—1977, Standard Methods of Fire Test for Flame-Resistant Textiles and Films.

(2) Other referenced standards and codes:

(A) National Association of Plumbing Heating Cooling Contractors (PHCC)—National Standard Plumbing Code, 1983;

(B) ANSI A 17.1, 1978—Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks; and Supplement ANSI A 17.1a, 1979;

(C) American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHREA)—Standard No. 52-76—Methods of Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matter;

(D) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHREA)—Handbook of Applications, 1978;

(E) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHREA)—Handbook of Funda-

mentals, 1977;

(F) American Society for Testing and Materials (ASTM)—Standard Number E 84-1977A—Method of Test for Surface Burning Characteristic of Building Materials;

(G) Hydronics Institute (Boiler Ratings)—I = B = R Cast iron and SBI Steel Boilers;

(H) National Council on Radiation Protection (NCRP)—Report Number 49, 1976—Medical X-ray and Gamma Ray Protection for Energies up to 10 MeV Structural Shielding Design and Evaluation;

(I) Underwriters' Laboratories, Inc. (UL)—Standard No. 181, 1974—Factory Made Air Duct Material and Air Duct Connectors.

(3) Standards of the Texas State Purchasing and General Services Commission. These standards are found in 1 TAC §§115.51-115.62 (relating to Elimination of Architectural Barriers).

(4) Other state, county, and local codes and standards. In addition to complying with the codes and standards described in paragraphs (1)-(3) of this subsection, abortion facilities shall comply with any applicable building codes, ordinances, and rules or regulations adopted by any city, county, or other state agency. Compliance with local codes is a prerequisite for licensing of an abortion facility. In areas not subject of local building codes, an abortion facility shall comply with one of the following model building codes:

(A) Uniform Building Code—1982: International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601;

(B) Standard Building Code—1984: International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

(5) The NFPA material is reprinted under authority of NFPA 101-1985, Life Safety Code, Copyright 1985, National Fire Protection Association, Quincy MA 02269. This reprinted material is not the complete and official position of the NFPA on the referenced subject which is represented only by the standard in its entirety. Life Safety Code and NFPA 101 are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA.

(b) The availability of codes and standards as referenced in subsection (a)(1)-(4) of this section may be reviewed in the offices of the Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin. Copies may be purchased from the various agencies listed as follows:

(1) Air Conditioning and Refrigeration Institute, 1815 North Ft. Myer Drive, Arlington, VA 22209;

(2) American National Standards Institute, 1430 Broadway, New York, NY 10018;

(3) American Society for Testing and Materials, 1916 Race Street, Philadel-



phia, PA 19103;

(4) American Society of Heating, Refrigerating, and Air-Conditioning, United Engineering Center, 345 East 47th Street, New York, NY 10017;

(5) Compressed Gas Association, 500 Fifth Avenue, New York, NY 10036;

(6) GSA Specification Consumer Information Distribution Branch, Building 197, Washington Navy Yard, Washington, DC 20407;

(7) Hydronics Institute, 35 Russo Place, Berkeley Heights, NJ 07922;

(8) National Association of Plumbing-Heating-Cooling Contractors, 1016 20th Street, NW, Washington, DC 20036;

(9) National Council on Radiation Protection and Measurement, P.O. Box 30175, Washington, DC 20014;

(10) National Fire Protection Association, Inc., Batterymarch Park, Quincy, MA 02210;

(11) Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20407;

(12) Underwriters' Laboratories, Inc., 353 Princeton Road, Northbrook, IL 60062;

(13) State Purchasing and General Services Commission, P.O. Box 13047, Austin, TX 78711;

(14) U.S. Department of Health and Human Services, Public Health Service, Health Resources and Services Administration, Bureau of Health Maintenance Organizations and Resources Development, Office of Health Facilities, Division of Facilities Conversion and Utilization, Rockville, MD 20857.

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

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TRD-8704235      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

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For further information, please call  
(512) 458-7245.

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## Subchapter C. Existing Abortion Facilities

[Existing Abortion Facilities]

### ★ 25 TAC §139.31, §139.32

The new sections are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4512.8, §3, which authorize the Texas Board of Health to adopt rules covering abortion facilities.

### §139.31 General.

(a) Minimum standards. All existing buildings which provide abortion services utilizing general anesthetics on an outpatient basis and are licensed by this agency shall comply with these minimum requirements.

(1) An existing building shall meet the requirements for abortion facilities, NFPA 101 (12-6) and §§139.41-139.47 of this title (relating to New Construction Requirements for Abortion Facilities) for other applicable requirements for abortion facilities.

(2) Structural requirements include all building components, exitways, corridors, stairways, doors, windows, floor, and wall finishes.

(3) Handrails shall be kept in good repair and provided on both sides of all stairways over three risers.

(4) All hallways, stairs, and other means of egress shall be adequately lighted and kept free of obstruction at all times in accordance with NFPA 101, Life Safety Code.

(b) Fire prevention and protection.

(1) Safety. The abortion facility shall have written plans for the timely care of casualties arising from both external and internal disasters, and shall document the rehearsal of these plans.

(2) Fire protection. Fire protection shall be provided in accordance with the requirements of NFPA 101 and paragraph (6) of this subsection. Approval of the fire protection of an abortion facility by the local fire department shall be a prerequisite for licensure.

(3) Smoking regulations.

(A) Each abortion facility shall establish and regulate a policy for smoking and it shall include the minimal provisions of NFPA 101 (31-4.4.).

(B) No smoking signs shall be posted in the corridors of operating, recovery room suites, and in all other areas where inhalation therapy may be in use. In addition, no smoking signs shall be prominently displayed in areas where flammable liquids or gases are stored and in areas of combustible storage.

(4) Fire extinguisher systems.

(A) All standpipes, sprinkler systems, and other fire-fighting equipment shall be inspected and tested at least once each year and more often if necessary to maintain it in serviceable condition.

(B) Sprinkler systems shall be installed and maintained in accordance with NFPA 13 and 13A.

(5) Portable fire extinguishers. Every portable fire extinguisher maintained in or upon abortion facility property shall be installed and maintained in accordance with NFPA 10 and NFPA 101. Travel distance to a fire extinguisher shall not exceed 75 feet.

(6) Fire protection and evacuation plan.

(A) Written plan. An approved plan for the protection of patients in the

event of fire and their evacuation from the building when necessary shall be formulated. This plan shall be reduced to writing with an evacuation floor plan posted in places conspicuous to patients and staff. All employees shall be instructed and kept informed regarding their duties under the fire protection and evacuation plan.

(B) Annual training. Each abortion facility shall formulate an annual training program for instruction of all personnel in the use of firefighting equipment.

(C) Fire drills.

(i) All personnel shall be familiar with the locations of fire-fighting equipment. There shall be a fire drill of personnel as required by NFPA 101, including the turning in of alarms, simulated evacuation of patients and other occupants, and the use of equipment.

(ii) Fire drills shall be held quarterly.

(D) Fire alarm system.

(i) Every abortion facility shall have an approved manual fire alarm system

(ii) A dedicated telephone line or other suitable alarm-sending device shall be provided as a means of automatically communicating an alarm of fire to the fire department (or other approved off-site 24-hour monitoring service).

(iii) All fire alarms shall be installed and tested as required by NFPA 101. The fire alarm system shall be installed in accordance with provisions of NFPA 72.

(E) Fire department access. Every abortion facility shall meet local fire department access requirements.

(c) Storage and housekeeping.

(1) All storage space shall be kept clean and orderly at all times. No storage shall extend higher than 18 inches below the bottom of ceiling, structure, or sprinkler heads.

(2) When basements, storerooms, or attics are used for combustible storage, they shall meet the applicable requirements listed in §139.44 of this title (relating to Design Requirements).

(3) Local supplies of paints, oils, and highly volatile combustible liquids shall be kept in metal cabinets having tight closing doors and drip pans. These cabinets must be well-ventilated at top and bottom.

(4) The entire premises shall be kept free from accumulations of combustible materials not necessary for immediate operation of the building.

(d) Testing and maintenance.

(1) The abortion facility structure, its component parts, and facilities shall be kept in good repair and maintained with consideration for the safety of the occupants of the building. Mechanical, plumbing, and electrical equipment shall be maintained in good repair and operating condition at all times. Physical plant equipment, medical and surgical equipment shall be tested and maintained under a formal preventive maintenance and testing program and documen-



tation kept for annual reviews and/or inspections.

(2) All air-conditioning and ventilating systems and all ductwork shall meet the requirements of NFPA 90A.

(3) All elevator equipment must be tested as required by §139.44(o) of this title (relating to Design Requirements).

(e) Gas appliances.

(1) The installation, use, and maintenance of gas fired cooking appliances, heating equipment, and gas piping, including venting, shall comply with the National Fire Protection Association's Pamphlet Number 54, National Fuel Gas Code. The use of portable gas heaters is prohibited.

(2) The use of unvented open flame heaters is specifically prohibited.

(3) Where gas-fired equipment is used, a fresh air inlet vent shall be provided directly to the outside of the building.

(4) All hot water heaters shall be equipped with an approved temperature pressure relief valve.

(5) All direct-fired heating units shall be designed to permit the discharge of the products of combustion into a flue or vent and all such units shall be properly vented to a vertical flue or chimney leading to the outer air above the high point on the roof. Direct-fired heating units shall not be permitted in any operating room, or in any other room where combustible vapors may be present.

(f) Heating, cooling, and ventilating systems.

(1) Heating shall be provided for all areas of the abortion facility to meet prevailing weather conditions and shall have the capability of maintaining a minimum temperature of 72°F. All heating units and systems shall meet local and state regulations.

(2) All heating, cooling, and ventilating systems shall conform to the requirements of §139.45 of this title (relating to Mechanical Requirements).

(g) Wiring and electrical appliances.

(1) New installations, corrections of defects, and system maintenance shall follow the recommendations of the National Electrical Code, NFPA 70.

(2) Electric lamps and other appliances in closets or other confined locations shall be protected by wire guards if near woodwork, paper, clothing, or other combustible materials, or if subject to breakage.

(3) All fixtures, switches, sockets, and other pieces of apparatus shall be maintained in a safe and workable condition.

(4) All cord-connected equipment shall be plugged directly into a wall receptacle using the cord furnished with the equipment. The use of extension cords is prohibited.

(5) All electrical outlets shall be simplex or duplex outlets or UL approved multiple outlet assemblies. The use of a plug-in multiple outlet assemblies is prohibited.

(6) Wire supports shall be noncom-

bustible insulated knobs and cleats, or wire staples, or in metal or metallic raceways.

(7) Surface mounted wiring installed on walls or partitions should be protected from mechanical injury to a height of seven feet above the floor.

(8) All wires through walls, floors, partitions, and building members shall be installed in approved metal sleeves or in approved conduit.

(9) All electrical heating devices shall be equipped with a pilot light to indicate when the device is in service, unless equipped with a temperature limiting device integral with the heater.

(10) Emergency nurses' call systems are required in all abortion facilities. See §139.46(i) of this title (relating to Electrical Requirements).

(11) All equipment, fixtures, and appliances shall be properly grounded in accordance with NFPA 70, National Electrical Code.

(12) Abortion facilities shall have an approved stand-by essential electrical system, as referenced in NFPA 70, NFPA 76A, and §139.46(g) of this title (relating to Electrical Requirements). The emergency generator shall be exercised weekly and tested under load conditions at least once every 30 days for a minimum of 30 minutes. Written logs will be maintained on site.

(h) Lighting. There shall be adequate illumination of the operative field as well as general illumination. All means of egress such as hallways, corridors, stairways, exterior exit doors, inclines, ramps, and entrances shall be well lighted in order to prevent accidents. Every room, including storerooms and attic shall have sufficient artificial lighting facilities so that all parts shall be clearly visible under such artificial lighting, as referenced in NFPA 101.

(i) Plumbing.

(1) New installations, correction of defects, and system maintenance shall all follow the recommendations of the National Standard Plumbing Code. The Uniform Plumbing Code may be used in lieu of National Standard Plumbing Code in municipalities or jurisdictions where it has been adopted.

(2) Bathroom and lavatory facilities shall be provided in number ample for use according to number of patients of both sexes and personnel. A minimum requirement is one toilet and lavatory for patient use and one toilet and lavatory for staff use.

(3) When a municipal water supply is not available, the water shall be tested at monthly intervals in accordance with the standards promulgated by state regulations.

(4) The plumbing system shall be free from cross-connections and interconnections between a safe water supply and one which is subject to contamination, or between a safe water supply and sewage, waste water, drainage, condensates, previously used water, contents of plumbing fixtures, or any other contaminated material.

(5) All plumbing fixtures and equipment shall be so designed and installed as to prevent the back-flow or back-siphonage of any material into the water supply. The over-the-rim type water inlet shall be used wherever possible. Vacuum-breaking devices shall be properly installed when an over-the-rim type water inlet cannot be utilized.

(6) The National Standard Plumbing Code shall be used to determine satisfactory compliance of individual plumbing fixture installations.

(7) The disposal of all radioactive wastes shall conform to the regulations of the Texas Department of Health, Bureau of Radiation Control, §§289.111-289.126 of this title (relating to Texas Regulations for Control of Radiation).

(j) Waste and waste disposal.

(1) Disposal of garbage and waste shall be approved by the state and the local authorities.

(2) All containers for garbage used in or outside the building shall be a suitable watertight container, have tight-fitting covers, and be rodent proof.

(3) Facilities shall be provided for sanitary storage and disposal of waste by incineration, mechanical destruction, compacting, containerization, removal, or by a combination of these techniques. Tissue and infectious waste shall be disposed of by incineration.

(4) The design and construction of incinerators and trash chutes shall be in accordance with NFPA 82. The facility may contract out for incineration services with a facility operating an incinerator which meets these standards.

#### §139.32. *Renovation Projects.*

(a) Construction phasing. Projects involving alterations of and additions to existing buildings shall be programmed and phased so that on-site construction will minimize disruptions of existing functions. Access, exitways, and fire protection shall be maintained so that the safety of the occupants will not be jeopardized during construction.

(b) Minimum requirements. All requirements listed in the new constructions standards relating to new construction projects are applicable to renovation projects involving additions or alternations, except that when existing conditions make changes impractical to accomplish, minor deviations from functional requirements may be permitted if the intent of the requirements is met, and care and safety of patients will not be jeopardized.

(c) Nonconforming conditions. When doing renovation work, if it is found to be unfeasible to correct all of the nonconforming conditions in the existing facility in accordance with these standards, a conditional approval may be granted by the licensing agency if the operation of the facility, necessary access by the handicapped, and safe-

ty of the patients are not jeopardized by the remaining nonconforming conditions.

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

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Robert A. MacLean  
Deputy Commissioner  
Texas Department of  
Health

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For further information, please call

(512) 458-7236

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## Subchapter D. New Construction Requirements for Abortion Facilities

### [New Construction Requirements for Abortion Facilities]

#### ★ 25 TAC §§139.41-139.47

The new sections are proposed under the Texas Abortion Facility Reporting and Licensing Act, Texas Civil Statutes, Article 4512.8, §3, which authorize the Texas Board of Health to adopt rules covering abortion facilities.

#### §139.41. *Application of Standards.*

(a) General. Every abortion facility building hereafter constructed, every building hereafter converted for use as an abortion facility, every building herein after applying for state licensure as an abortion facility, and every addition and/or alteration hereafter made to an abortion facility building shall comply with the requirements of these standards. These standards comprise an addition to the requirements for existing construction.

(1) Compliance with these standards does not constitute release from the requirements of other applicable state and local codes and ordinances. These standards must be followed where they exceed other codes and ordinances.

(2) In accordance with state law covering the handicapped as administered by the State Purchasing and General Services Commission, Austin, special design features for the handicapped shall be provided for all abortion facilities.

(3) No building may be converted for use as a licensed abortion facility which, because of its location, physical condition, state of repair, or arrangement of facilities, would be hazardous to the health and safety of the patient who would be treated in such a building. Any facility which has been vacated over a period of one year or used for occupancy other than for an abortion facility will be classified as a new facility.

Prior to licensure by agency, the facility must meet all requirements of these standards for new construction.

(b) Provisions in excess of code requirements. Nothing in these standards shall be construed to prohibit a better type of building construction, more exits, or otherwise safer conditions than the minimum requirements specified in these standards.

(1) Nothing in these standards is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by these standards, providing technical documentation is submitted to the licensing agency to demonstrate equivalency and the system, method, or device is approved for the intended purpose.

(2) The specific requirements of these standards for existing buildings may be modified by the licensing agency to allow alternate arrangements that will secure as nearly equivalent safety to life from fire as practical, but in no case shall the modification afford less safety to life than compliance with the corresponding provisions contained in these standards for existing buildings.

#### §139.42. *Submittal Requirements.*

(a) Submission of plans and specifications. Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the licensing agency for review and approval.

(b) Construction and inspections. Notification shall be given the licensing agency when construction is commenced. If the construction takes place in or near occupied areas, adequate provision shall be made for the safety and comfort of patients.

(1) Construction shall be completed in compliance with the final drawings and specifications, including all addenda or modifications approved for the project.

(2) An appropriate construction progress inspection and final inspection of the facility will be scheduled for the purpose of verifying compliance with the licensing standards, plans, and specifications.

(3) No facility shall occupy any new structure or major addition or renovation space until the appropriate permission has been received from the local building and fire authorities.

§139.43. *Site Requirements.* The site of any new facility shall be easily accessible to the community and to service vehicles such as delivery trucks, ambulances, and fire protection apparatus.

#### §139.44. *Design Requirements.*

(a) Details and finishes. All details and finishes shall meet the following requirements.

(1) Details.

(A) Minimum public corridor width shall be four feet, in clear width except for a corridor where patients are trans-

ported in stretchers or beds which shall be eight feet in clear width. Where patients are transported by stretcher, access to at least one exit shall be by an eight-foot wide corridor.

(B) A building used exclusively as an abortion facility shall comply with §12.6 of NFPA 101 and as described herein. Where included in buildings with other occupants, there shall be not less than one-hour separation between the abortion facility and any other sections. The abortion facility shall have not less than two exits to the exterior. Exits, finishes, separation of hazardous areas, and smoke separation shall be as required in Chapter 12.6, NFPA 101.

(C) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located not to restrict corridor traffic or reduce the corridor width below the required minimum.

(D) Toilet rooms which may be used by patients shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outwards, or be otherwise designed to be opened without need to push against a patient who may have collapsed within the room.

(E) The minimum width of doors for patient access to examination and treatment rooms shall be three feet. The minimum width of doors to rooms needing access for beds shall be three feet, eight inches.

(F) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type.

(G) Doors, except doors to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk-in type closets are considered as occupiable spaces.

(H) Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within 18 inches of the floor (thereby creating possibility of accidental breakage by pedestrian traffic) shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Safety glass or plastic glazing materials shall be used for shower doors and bath enclosures.

(I) Provisions for hand drying shall be included at all handwash facilities except scrub sinks. These shall be single use separate individual paper or cloth units enclosed to provide protection against dust and soil and insure single unit dispensing. Hot air dryers are permitted.

(J) Where labeled fire doors are required, these shall be certified by an independent testing laboratory as meeting the construction requirements equal to those for fire doors in NFPA Standard 80. Reference

to a labeled fire door shall be constructed to include labeled frame and hardware.

(K) Dumbwaiters, conveyors, and material handling systems shall comply with ANSI A17.1, Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks.

(L) Radiation protection requirements of X-ray and gamma ray installations shall conform with NCRP Reports Numbers 33 and 49. Provisions shall be made for testing the completed installation before use and all defects must be corrected before acceptance.

(M) The minimum ceiling height shall be eight feet with the following exception.

(i) Operating rooms or other rooms containing ceiling-mounted equipment and including those with ceiling-mounted surgical light fixtures shall have height required to accommodate the equipment and/or fixture, but no less than nine feet.

(ii) Rooms containing heat producing equipment shall be ventilated.

(2) Finishes.

(A) Cubicle curtains and draperies shall be noncombustible or rendered flame retardant and shall pass both the large and small scale tests of NFPA Standard 701.

(B) Flame spread and smoke developed ratings of finishes are covered under NFPA 101. Whenever possible, the use of materials known to produce large amounts of noxious gases shall be avoided.

(C) Conductive flooring may be omitted from treatment and operating rooms provided that a written resolution is signed by the abortion facility governing body stating that no flammable anesthetic agents will be permitted in these areas and provided that appropriate notices are permanently and conspicuously affixed to the wall in each such area and room.

(D) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, such as shower and bath areas and certain work areas, shall have a nonslip surface.

(E) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(F) Ceilings shall be cleanable and those in surgical rooms and sterile processing shall be readily washable, smooth, and impervious. These sensitive areas shall have a finished ceiling covering all overhead ductwork and piping. Finished ceilings may be omitted in mechanical and equipment spaces, general storage areas, and similar spaces, unless required for fire-resistive purposes.

(G) Acoustical ceilings may be

provided in corridors, multipurpose rooms, waiting areas, preop and recovery areas.

(b) Construction, including fire resistive requirements.

(1) Construction. Construction of an abortion facility shall generally be similar to recognized national model building code requirements applicable to office occupancies and to the minimum requirements of NFPA 101, Chapter 12-6.

(2) Interior finishes. Interior finish materials shall comply with the flame spread limitations and the smoke production limitations shown in NFPA 101. Wall finishes less than four mil in thickness applied over non-combustible base need not comply with the aforementioned.

(3) Insulation materials. Building insulation materials, unless sealed on all sides and edges, shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less when tested in accordance with ASTM Standard E 84.

(c) Provision for natural disasters. Special provisions shall be made in the design of buildings in regions where local experience shows loss of life or extensive damage to buildings resulting from hurricanes, tornadoes, or floods.

(d) Elevators. All buildings that have patients' services located on other than the main entrance floor shall have electric or electrohydraulic elevators. The elevators shall be installed in sufficient quantity, capacity, and speed that the average interval of dispatch time will not exceed one minute, and average peak loading can be accommodated. A hospital-type elevator shall be provided if the operating room(s) are located on a floor other than the preop and/or recovery floors. Installation and testing of elevators shall be in accordance with ANSI A-17.1-1971.

(1) Cars and platforms. Cars shall have a minimum inside floor dimension of not less than five feet. The car door shall have a clear opening of not less than three feet. Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient's bed and attendants and shall be at least five feet wide by seven feet six inches deep. The car door shall have a clear opening of not less than three feet eight inches.

(2) Operation. Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(3) Elevator controls, alarm buttons, and telephones. Elevator controls, alarm buttons, and telephones shall be:

(A) accessible to wheelchair occupants; and

(B) of a type that will not be activated by heat or smoke.

(e) Field inspection and tests. Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safe-

ty regulations and codes.

§139.45. *Mechanical Requirements.*

(a) General.

(1) Design and construction. All mechanical systems shall be designed for overall efficiency and life cycle costing, including operational costs. However, in no case shall patient care or safety be sacrificed for conservation.

(2) Performance and acceptance. Prior to completion and acceptance of the facility, all mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of the plans and specifications.

(3) Material lists and instructions. Upon completion of the contract, the owner shall be furnished with a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions, and parts list with numbers and description for each piece of equipment. The owner shall also be provided with instruction in the operational use of systems and equipment as required.

(b) Thermal and acoustical insulation.

(1) Insulation shall be provided for the following within the abortion facility:

(A) boilers, smoke breeching, and stacks;

(B) steam supply and condensate return piping;

(C) hot water piping above 120°F and all hot water heaters, generators, and converters;

(D) chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

(E) water supply and drainage piping on which condensation may occur;

(F) air ducts and casings with outside surface temperature below ambient dew point;

(G) other piping, ducts, and equipment as necessary to maintain the efficiency of the systems.

(2) The insulation required in paragraph (1) of this subsection may be omitted from hot water and steam condensate piping not subject to contact by patients when the heat loss from such piping without insulation does not increase the energy requirements of the system.

(3) Insulation, including finishes and adhesives on the exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 50 or less and a smoke developed rating of 150 or less as determined by an independent testing laboratory in accordance with NFPA 255 as required by NFPA 90-A.

(4) Linings in air ducts and equipment shall meet the erosion test method described in Underwriters' Laboratories, Inc., Publication Number 18. These linings, including coatings and adhesives, and insulation on exterior surfaces of pipes and ducts

in building spaces used as air supply plenums, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as determined by an independent testing laboratory in accordance with NFPA 255 as required by NFPA 90-A.

(5) Duct linings shall not be used in systems supplying operating and recovery rooms, unless terminal filters of at least 90% efficiency are installed downstream of linings.

(c) Steam and hot water systems.

(1) Boilers shall have the capacity, based upon the net ratings published by the Hydronics Institute, to supply the normal requirements of all systems and equipment.

(2) Supply and return mains and risers of space heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends except for vacuum condensate drains.

(d) Air conditioning, heating, and ventilating systems.

(1) Temperatures and humidities requirements are as follows.

(A) The designed capacity of the systems shall provide the following temperatures and humidities in the areas noted.

(i) For operating rooms, the temperature shall be maintained between 70°F-75°F and the relative humidity between 45%-60%.

(ii) For recovery rooms, the temperature shall be maintained at 75°F and the relative humidity between 30%-60%.

(B) Each operating room and the recovery room shall have temperature/humidity gauges, with visual monitoring capabilities, conveniently mounted.

(C) For other areas occupied by patients, the indoor winter design temperature shall be 75°F. For all other occupied areas, the indoor winter design temperatures shall be 72°F.

(2) Ventilation system details are as follows.

(A) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in the table in §139.47(b) of this title (relating to Tables) shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

(B) Outdoor intakes shall be located as far as practical but not less than 25 feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vents stacks, or from areas which may collect vehicular exhaust and other noxious fumes (plumbing and vacuum vents) that terminate above the level of the top of the air intake may be located as close as 10 feet. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than six feet above ground level, or if installed above the roof, three feet

above the roof level.

(C) The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in Table in §139.47(b) of this title (relating to Tables).

(D) All air supplied to operating rooms shall be delivered at or near the ceiling of the area served; all return air from the area shall be removed near floor level (three inches to seven inches). At least two return air outlets shall be used in each operating room.

(E) Each space used for the administering of inhalation anesthetizing agents shall be provided with a separate scavenging system for venting of waste anesthetizing gases.

(i) Potential harmful effects upon personnel subject to constant exposure to anesthetizing gases are generally recognized; however, the environment within the operating theater shall meet OSHA standards for trace contaminants of anesthesia gases. Any scavenging system should be designed to remove as much of the anesthetizing gas as possible. Maximum effectiveness of the scavenging system may also require careful attention to selection and maintenance of anesthetizing equipment used.

(ii) Pressure balance must be such that the gas collecting system does not interfere with required room pressure relationship or with breathing circuit that may affect patient safety. The intake shall be appropriately located in relation to the patient and the equipment and design so that gases are exhausted directly to the outside.

(iii) Exception: if medical/surgical vacuum system is installed in accordance with NFPA 99 or 56K, this system may be utilized as scavenging system in lieu of a mechanical system.

(F) All central ventilation or air conditioning systems shall be equipped with filters having efficiencies no less than those specified in the table in §139.47(c) of this title (relating to Tables). Where two filter beds are required, Filter Bed Number 1 shall be located upstream of the air conditioning equipment and Filter Bed Number 2 shall be downstream of the supply fan, cooling coils, any recirculating spray water systems, and water reservoir type humidifiers.

(i) All filter efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-76.

(ii) Filter frames shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

(iii) A manometer shall be installed across each filter bed serving sensitive areas or central air systems. Remote monitors shall be located within occupied spaces.

(G) Air handling duct systems

shall meet the requirements of NFPA Standard 90A.

(H) Ducts which penetrate construction intended for X-ray or other ray protection shall not impair the effectiveness of the protection.

(I) Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of NFPA Standard 90A, except that all systems, regardless of size, which serve more than one smoke or fire zone, shall be equipped with smoke detectors to shut down fans automatically. Access for maintenance shall be provided at all dampers.

(i) Supply and exhaust ducts which pass through a smoke separation of required compartmentation and through which smoke can be transferred to another area shall be provided with dampers at the separation controlled to close automatically to prevent flow of air or smoke when the fan, which moves the air through the duct, stops. Dampers shall be equipped with remote control reset devices except that manual reopening will be permitted if dampers are conveniently located.

(ii) Return air ducts which pass through a smoke separation of required compartmentation shall be provided with a damper at the separation actuated by smoke or products of combustion (other than heat) detectors. These dampers shall be operated by detectors located in the return air ducts from the smoke zone to sense smoke. On high velocity systems, a time delay is required so that fan will be stopped prior to damper closing. Engineered smoke exhaust systems may be considered for approval.

(J) The ventilation systems for medical gas storage rooms shall conform to the requirements of NFPA Standard 56A, including the gravity option. A mechanically operated air system is optional in this room only.

(K) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment.

(e) Plumbing and other piping systems. All plumbing systems shall be designed and installed in accordance with the requirements of PHCC National Standard Plumbing Code, Chapter 14, Medical Care Facility Plumbing Equipment. The use of PVC piping is not permitted above slab, except as roof drains, vent piping (when enclosed in one hour rated noncombustible construction throughout the building spaces.)

(1) Plumbing fixtures are as follows.

(A) The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material.

(B) All fixtures used by medical and nursing staff in patient areas shall be trimmed with valves which can be operated without the use of hands (single lever devices are acceptable). Where blade handles are used for this purpose, they shall not exceed

4½ inches in length, except that handles on clinical sinks shall be not less than six inches long.

(C) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(2) Water systems are as follows.

(A) Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(B) Backflow preventers (vacuum breakers) shall be installed on hose bibbs, laboratory sinks, janitors' sinks, and on all other fixtures to which hoses or tubing can be attached.

(C) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water to handwashing facilities shall not exceed 120°F. Hot water for laundry service shall be a minimum of 160°F.

(3) As regards drainage systems, building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and state regulations.

(4) Automatic fire extinguishing systems shall be installed in soiled linen, trash rooms, certain bulk storage rooms, attic spaces and crawl spaces used for storage, and any other hazardous area. An exception to this requirement is that these rooms may be provided with a complete two-hour rated enclosure construction in lieu of sprinkler protection.

(5) Nonflammable medical gas systems installations shall be in accordance with the requirements of NFPA 99 and 56F. Where any piping or supply of medical gases is affected by change, alterations, or additions, the entire system shall be tested and certified as to type, quality, and quantity of medical gas at each outlet and exact areas affected by each control valve station.

(6) If required, clinical vacuum (suction) systems shall be designed, installed, and maintained in accordance with NFPA 99 and NFPA 56K.

#### §139.46. *Electrical Requirements.*

(a) General.

(1) Material. All material, including equipment, conductors, controls, and signaling devices shall be installed in compliance with the National Electrical Code, NFPA 70, as necessary to provide a complete electrical system. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc., or other similarly established standards.

(2) Electrical installations. All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified. A written record of performance tests on special electrical systems and equipment shall be supplied to the owner. Such tests shall show compliance with the governing codes and

shall include isolated power systems, if utilized, grounding continuity and alarm systems.

(b) Switchgear and power panels.

(1) Switchboards. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a deadfront type of assembly. The main switchboards (pertains to electrical service located within the physical confines of the abortion facility) shall be located in a separate room accessible only to authorized persons. The switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in the ambient temperature conditions.

(2) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.

(c) Conduit. All connectors for controls, equipment, lighting, and power operating at 100 volts or greater shall be installed in metal or metallic raceways. Exception to this requirement is that wiring for isolated power systems, if utilized, in anesthetizing locations may be run in nonmetallic conduit as per NFPA 70.

(d) Lighting.

(1) General. All spaces occupied by people, machinery, equipment within buildings, approaches to the buildings, and parking lots shall have lighting.

(2) Examination and treatment rooms. A portable or fixed examination light shall be provided in each examination and treatment room.

(3) Operating rooms. Operating rooms shall have general lighting in addition to local lighting provided by special lighting units at the surgical tables. Each fixed special lighting unit at the tables, except for portable units, shall be connected to an independent circuit.

(e) Receptacles (convenience outlets).

(1) Anesthetizing locations. Each operating room shall have at least four duplex receptacles.

(2) Rooms. Duplex grounding type receptacles shall be installed in all areas in sufficient quantities for the tasks to be performed. A minimum of one duplex receptacle for each wall shall be installed in each work area or room other than storage or lockers. Each examination and work table shall have access to a minimum of two duplex receptacles.

(f) Equipment installation in special areas.

(1) X-ray installations, if applicable. Fixed and mobile X-ray equipment installations shall conform to Article 517 of NFPA Standard 70.

(2) Installation in anesthetizing

locations. All electrical equipment and devices, receptacles, and wiring shall comply with NFPA Standard 70, except that a static type line isolation monitor will be permitted.

(g) Emergency electric service.

(1) General. To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(2) Sources. The source of this emergency electric service shall be as follows.

(A) an emergency generating set when the normal service is supplied by one or more central station transmission lines;

(B) an emergency generating set or a central station transmission line when the normal electric supply is generated on the premises;

(C) where battery operated equipment is provided, a generator is not required. Battery systems shall be capable of meeting all functional requirements described herein and must be capable of four hours continuous operation.

(3) Emergency generating set. The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. An exception to this requirement is that a system of prime movers which are ordinarily used to operate other equipment and alternately used to operate the emergency generator(s) will be permitted, provided that the number and arrangement of the prime movers are such that when one of them is out of service (due to breakdown or for routine maintenance) the prime mover(s) can operate the required emergency generator(s), and provided that the connection time requirements described in paragraph (g)(5) of this subsection are met.

(4) Emergency electrical connections. Emergency electric service shall be provided to the distribution systems as follows.

(A) Circuits for the safety of patients and personnel:

(i) illumination of means of egress as required in NFPA Standard 101;

(ii) illumination for exit signs and exit directional signs as required in NFPA Standard 101;

(iii) alarm systems, including fire alarms activated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed;

(iv) paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power;

(v) general illumination and selected receptacles in the vicinity of the generator set.

(B) Circuits essential to care,

treatment, and protection of patients:

(i) task illumination and selected receptacles in medicine dispensing areas, angiographic laboratories, operating, recovery, and treatment rooms, and nurses' stations;

(ii) nurses' calling system;

(iii) blood bank refrigeration, if applicable;

(iv) equipment necessary for maintaining telephone service;

(C) Circuits which serve necessary equipment. The connection to the following emergency electric services shall be delayed automatic except for heating, ventilation, fire pump, and elevators which may be either delayed automatic or manual:

(i) elevator service that will reach every floor used by patients. Throw-over facilities shall be provided to allow temporary operation of any elevator for the release of persons who may be trapped between floors;

(ii) continuous ventilation of anesthetizing locations via air handling equipment;

(iii) central suction systems serving medical and surgical functions, if installed;

(iv) equipment which must be kept in operation to prevent damage to the building or its contents.

(5) Details. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply the generator is brought to full voltage and frequency. It must be connected within 10 seconds through one or more primary automatic transfer switches to emergency lighting systems, alarm systems, blood banks, nurses' calling systems, equipment necessary for maintaining telephone service, and task illumination and receptacles in operating and recovery rooms, and other critical patients' service areas. All other lighting and equipment required to be connected to the emergency system shall either be connected through the previously described primary automatic transfer switches or through other automatic or manual transfer switches. Receptacles connected to the emergency system shall be distinctively marked.

(6) Fuel storage. Capacity of on site fuel storage shall allow for four hours continuous load and six months testing.

(h) Fire alarm system.

(1) A manually operated electrically

supervised fire alarm system shall be installed in each facility as described in NFPA 101 and NFPA 72A.

(2) The fire alarm system shall have both audio and visual signaling devices.

(i) Emergency call systems.

(1) An emergency call station which may be used by medical staff to summon assistance shall be located in each operating room, treatment room, recovery and preop holding. This emergency system should have voice communication capabilities so that type of assistance may be specified. A properly designed telephone/intercom system may serve as the emergency call system.

(2) A nurse call emergency button shall be located for patient's use in each patient toilet (preop and recovery). Each button shall be provided with a pull cord to allow for use by a collapsed patient on the floor. Pull cord shall activate a visible signal outside of room where emergency call originated.

(3) Emergency calls shall register at a staffed location equipped for such emergencies.

§139.47. Tables.

(a) This subsection adopts the following table on abortion facilities:

#### ABORTION FACILITIES

CONSTRUCTION TYPE	STORIES	
	1	2 OR MORE
I (443) or I (332)	X	X
II (222) or II (111)	X	X
II (000)	X	AS
III (211)	X	X
III (200)	X	AS
IV (2HH)	AS	AS
V (111)	X	AS
V (000)	AS	AS

AS: Permitted if building is protected throughout with automatic sprinklers.

X: Permitted type of construction

NP: Not permitted

(b) This subsection adopts the following table on general pressure relationships and ventilation of abortion facilities:

GENERAL PRESSURE RELATIONSHIPS AND VENTILATION OF ABORTION FACILITIES

5

AREA DESIGNATION	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Supplied to Room	Minimum Total Air Changes per Hour Supplied to Room	All Air <sup>4</sup> Exhausted Directly to Outdoors	Recirculated Within Room Units <sup>2</sup>
Operating Room	P	3	15	-	NO
Examination, Treatment Room and Pre-op	V	-	6	-	-
Recovery Room (Post-anesthesia)	P	1	6	-	NO <sup>2</sup>
Medication Room	P	-	4	-	-
Pharmacy	P	-	4	-	-
X-ray Room	E	-	6	-	-
Soiled Workroom or Soiled Holding	N	-	10	YES	NO
Clean Workroom or Clean Holding	P	-	4	-	-
Darkroom	N	-	10	YES	NO
Toilet Room	N	-	10	YES	NO
Bathroom	N	-	10	YES	NO
Janitors' Closet	N	-	10	YES	NO
Sterilizer Equipment Room	N	-	10	YES	NO
Linen and Trash Chute Rooms	N	-	10	YES	NO
Laboratory, General	N	-	6	-	-
Soiled Linen Sorting and Storage	N	-	10	-	NO
Clean Linen Storage	V	-	2	-	-
Anesthesia Storage <sup>3</sup>	V	-	8	YES	NO
Central Services					
Soiled or Decontamination Room	N	-	6	YES	NO
Clean Workroom	P	-	4	-	-
Equipment Storage	V	-	2	-	-

P = Positive                      N = Negative                      E = Equal                      V = May Vary

1

See Sections 139.30(d)(2)(J) & (K) (Mechanical Requirements) for additional requirements.

2 Recirculating room units meeting the filtering requirement for sensitive areas in Section 139.90(d)(2)(F) (Mechanical Requirements).

3 For maximum energy conservation, use of a recirculated filtered air system is preferred. An all outdoor air system may be used, where required by local codes, provided appropriate heat recovery procedures are utilized for exhaust air.

4 Heat recovery systems should be utilized where appropriate especially for those areas where all air is required to be exhausted to the outside.

5 Requirements for outdoor air changes may be deleted or reduced and total air changes per hour supplied may be reduced to 25% of the figures listed when the affected room is unoccupied and unused provided that indicated pressure relationship is maintained. In addition, positive provisions such as an interconnect with room lights must be included to insure that the listed ventilation rates including outdoor air are automatically resumed upon reoccupancy of the space. This exception does not apply to certain areas such as toilets and storage which would be considered as "in use" even though "unoccupied."

General Note: The outdoor air quantities for central systems employing recirculating and serving more than a single area designation may be determined by summing the individual area air quality requirements rather than by providing the maximum listed ratio of outdoor air to total air. This does not apply to sensitive areas such as operating and recovery rooms.

(c) This subsection adopts the following table on filter efficiencies for central ventilation and air conditioning systems in abortion facilities.

FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND  
AIR CONDITIONING SYSTEMS IN ABORTION FACILITIES

AREA DESIGNATION	MINIMUM NUMBER OF FILTER BEDS	FILTER EFFICIENCIES (Present)	
		FILTER BED NO. 1	FILTER BED NO. 2
Sensitive Areas*	2	25	90

\*Includes operating rooms and recovery rooms.

Note: Ratings shall be with tolerances of ARI Standard 680-74.

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 May 19, 1987.

TRD-8704237      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Earliest possible date of adoption:  
July 31, 1987  
For further information, please call  
(512) 458-7236.

★      ★      ★



Name: Serena Puma  
Grade: 10  
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# Adopted

## Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *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 28. INSURANCE

#### Part I. State Board of Insurance

#### Chapter 3. Life, Accident, and Health Insurance and Annuities

#### Subchapter A. Preparation and Submission of Individual Life Insurance and Annuity Forms

#### ★28 TAC §§3.1-3.9

The State Board of Insurance adopts amendments to §§3.1-3.8, and new §3.9. Sections 3.1 and 3.7 are adopted with changes to the proposed text published in the April 14, 1987, issue of the *Texas Register* (12 TexReg 1263). Sections 3.2-3.6, 3.8, and 3.9 are adopted without changes and will not be republished. In addition to the changes, adoption includes correction of an error by the chief clerk in preparation of the published text. Within the parentheses in paragraph (3) of §3.1 (b), the word "of" was originally published as "on".

Sections 3.1-3.9 concern preparation and submission of individual life insurance and annuity forms. The amendments and new section are necessary to standardize and disencumber the procedure for submitting policy forms to the State Board of Insurance for filing and/or approval, and thereby to facilitate and streamline the board's process for receiving and reviewing policy forms. Adoption of the amendments and new section should result in more effective regulation of life insurance and annuity forms through a more expeditious review process. The expedited review process will enable the same staff to review a greater number of policy forms, and will result in fewer forms being deemed approved by the passage of a statutory time period without review. Responses to comments have resulted in changes to the proposed text of §3.7(b) for the purpose of explaining use of the checklist which the section includes.

The amendments clarify and elaborate on the instructions to be followed by insurers when submitting forms either for review and approval or for filing only. By expand-

ing the interpretation of what constitutes a severable form that may be independently reviewed and by allowing the use of alternate insert pages, the amendments also eliminate the necessity for repeated re-submissions of entire policy forms. The new section mandates the use of the instructions set forth in §§3.1-3.8.

Commenting for these amendments and this new section, Norris Knosher, representing National Life Insurance Company and Vermont Life Insurance Company, and Robert L. Stockmeyer, representing American General Life Insurance Company, submitted comments generally in favor of the sections; however, Mr. Stockmeyer suggested modification of §3.7 as proposed. Commenting against §3.7, Susan Park, representing Jackson National Life Insurance Company of Texas, objected to adoption of §3.7 as proposed.

Commenters described the requirements for the transmittal letter as extensive and somewhat complicated. They suggested expansion of the checklist to include: a line for name and phone number of person responsible for filing, a question concerning the Flesch score, a reminder of the requirement for submission of forms in duplicate, a question concerning an indeterminate premium plan and concerning attachment of actuarial certification and special statements, provision for letterheads or names and addresses of companies, necessary certifications with spaces for date and authorized officer signature, and more space for answers, explanations, and changes.

The board disagrees with the commenters, because §3.7 requires a transmittal letter that provides a summary of relevant information about the form under review, and the checklist is a brief reminder of significant information. Expansion and elaboration of details must end somewhere for a checklist. Texas law does not specify readable language for life insurance forms. In response to these comments, adoption of the amendments has included changes in §3.7 so that the second sentence of subsection (b) now reads: "The checklist may be duplicated, expanded, filled in, and/or used as or with the transmittal letter."

The amendments and new section are

adopted under the Insurance Code, Article 3.42(k), which authorizes the State Board of Insurance to adopt such reasonable rules and regulations as are necessary to implement and accomplish the specific provisions of Article 3.42, which requires filing, review, and/or approval of life insurance and annuity forms.

#### §3.1. Riders, Endorsements, Amendments, Insert Pages, and Other Supplemental Forms.

(a) Although it is recognized that a rider, endorsement, amendment, insert page, or supplemental form is merely a part of the entire written contract between the policy holder and the insurer, each form will be reviewed and approved (as applicable) and/or accepted for filing independently of the basic contract of which it is a part, provided that:

- (1) the form does not change the basic concept and/or plan of the contract;
- (2) the form can be comprehensibly analyzed and reviewed and is understandable apart from the base policy (contract);
- (3) the form does not provide benefits which are combined with base policy benefits in a manner such that the benefits of the form cannot be analyzed and reviewed apart from the base policy; and
- (4) the form, if changing the benefits provided under the basic contract for some issues of the basic contract, will not be used such that the basic contract will be issued to provide benefits on a basis which is unfairly discriminatory.

(b) A form which can be reviewed independently of the basic contract is considered severable. A form which cannot be reviewed independently of the basic contract is considered nonseverable. Some examples of severable forms are:

- (1) a waiver of premium rider;
- (2) an application;
- (3) an endorsement amending the calculation of nonforfeiture benefits if the endorsement is for use in a particular market (such as all new issues of a particular policy);
- (4) an endorsement amending the partial surrender provision if the endorsement is for use in a particular market (such as all new issues of a policy when the initial amount of insurance is \$100,000 or more);
- (5) an insert page for nonforfeiture values, for a previously approved policy

form, when the policy form is intended for use in a market which requires the use of nonforfeiture values which are different from those approved in the original policy form. This could be applicable to policies which are for use in the sex neutral market, when the insurer decides (after receiving approval of a particular base policy for use in the sex distinct market) to seek approval of a version of the policy for use in a market which is subject to the Norris Decision;

(6) an update endorsement which is optional to existing policyholders of a particular policy form and which provides a benefit that is more favorable than benefits which are provided under the in-force policy.

(c) In handling forms under this section, the commissioner will determine whether the form is acceptable for independent review. The contract form to which a nonseverable rider, endorsement, amendment, insert page, or other supplemental form is to be attached, must be filed under an adjusted form number if that contract form has been previously approved without the nonseverable form. The adjusted form number may be made by a typewritten prefix or suffix or rubber stamp for cases where the contract is issued with the nonseverable form. Nonseverable forms include, but are not limited to, the following:

- (1) a form which adds an option to suspend premium payments;
- (2) a form which changes the contract from a fixed premium life policy to a flexible premium life policy;
- (3) a form which changes the contract from a fixed benefit policy to a variable benefit policy;
- (4) a policy cover or policy shell;
- (5) a corrective endorsement which adds required language to a form;
- (6) a form which adds additional insurance with cash values and refers to the policy for the paid-up nonforfeiture benefits to be provided by the cash value of the form; and
- (7) an insert page providing nonforfeiture benefits on the basis of one interest rate (such as 6.0%) which is to be issued as

part of a particular policy form when that policy form is also being issued with an insert page providing nonforfeiture benefits on the basis of a different interest rate (such as 5.0%).

### §3.7. *Transmittal Letters and Additional Information.*

(a) Each form submitted shall be accompanied by a transmittal letter, in duplicate, addressed to the Individual Life Section, Policy Approval Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. The transmittal letter and accompanying materials shall supply the following information (as applicable to the submission):

(1) the identifying form number of the form being submitted;

(2) a statement of the type of coverage provided by the form;

(3) a statement indicating whether the form is being filed under subparagraph (1) or (2) of the Insurance Code, Article 3.42, paragraph (d). If the filing is made under subparagraph (1), the certification required by said statute shall be included in the filing;

(4) a statement indicating whether domiciliary approval of the form has been granted, if applicable, and the date of domiciliary approval. If the domiciliary state does not approve forms, a statement indicating whether the form has been filed and accepted for use in the domiciliary state and the date of acceptance by the domiciliary state;

(5) if the form is exempt from review, a statement to that effect and a statement specifying the subparagraph of §3.4004 of this title (relating to Exempt Forms) under which the form is considered exempt from review. The exempt certification required by §3.4005 of this title (relating to General Information) shall be included with the filing;

(6) if the form is new, a statement to that effect. If the new form is very similar to a previously approved form, the insurer may wish to so indicate and specify the form number and approval date of the previously approved form;

(7) if the form is a resubmission of a disapproved form, a statement specifying the form number of the previously disapproved form and the date of disapproval, along with a summary of any changes made in the resubmitted form;

(8) if the form is a substitution for a previously approved form which has never been issued in the state, a certification to that effect, along with the approval date and form number of the previously approved form, and an explanation of the changes made to the form;

(9) if the form is an update to a previously approved form which has been issued in the state, an explanation of the benefits being provided by the update, a statement indicating the form numbers and approval dates of the forms being updated, and a statement explaining which policyholders will be offered the update;

(10) a listing of the policy form numbers (and approval dates) with which the submitted form (rider, amendment, endorsement, insert page, or supplemental form) is to be used and a statement explaining when the form will be used with the policy forms in the listing;

(11) if the form is not a policy, when policy schedule/data pages showing all material pertinent to the form is such material is necessary for a comprehensive review of the form;

(12) if the form is an insert page or is only included in certain issues of a particular policy and the policy will provide different benefits when the form is included, a statement explaining when each different benefit will be issued under the policy;

(13) if the form is not a policy, but makes changes to a provision within a previously approved policy, a statement indicating under what circumstances the form will be used with new issues of the policy or with existing in-force issues of the policy;

(14) any additional information necessary for a comprehensive review of the form.

(b) A transmittal letter checklist is set forth below to assist in the preparation of filings. The checklist may be duplicated, expanded, filled in, and/or used as or with the transmittal letter.

Transmittal Letter / Information Checklist

- (1) Form Number \_\_\_\_\_
- (2) Type of Form \_\_\_\_\_
- (3) (d)(2) Filing \_\_\_\_\_ (d)(1) Filing \_\_\_\_\_  
 (d)(1) Certification attached \_\_\_\_\_
- (4) Domiciliary Approval - Yes \_\_\_\_\_ /No \_\_\_\_\_
- (5) Exempt from Review - No \_\_\_\_\_ /Yes \_\_\_\_\_  
 Exempt Certification attached \_\_\_\_\_
- (6) New Form - Yes \_\_\_\_\_ /No \_\_\_\_\_  
 New Form is similar to form number \_\_\_\_\_ /Approval Date \_\_\_\_\_
- (7) Resubmission for Disapproved form # \_\_\_\_\_ /Disapproved on \_\_\_\_\_  
 Changes to resubmitted form are \_\_\_\_\_
- (8) Substitution for form # \_\_\_\_\_ /Approval Date \_\_\_\_\_  
 Certification regarding issuance of previously approved form  
 attached - Yes \_\_\_\_\_ /No \_\_\_\_\_  
 Changes to form due to substitution are \_\_\_\_\_
- (9) Form updates previously approved form # \_\_\_\_\_ /Approval Date \_\_\_\_\_  
 Update is offered to \_\_\_\_\_  
 Explanation of benefits provided by the update \_\_\_\_\_
- (10) Submitted form is for use with form # \_\_\_\_\_ Approved on \_\_\_\_\_  
 Submitted form is used with form # \_\_\_\_\_ under the following  
 circumstances \_\_\_\_\_
- (11) Schedule pages showing material pertinent to form are attached  
 Yes/No \_\_\_\_\_
- (12) Submitted form which provides different benefits for certain issues  
 of form # \_\_\_\_\_ Approval Date \_\_\_\_\_  
 Will be used in the following manner \_\_\_\_\_
- (13) Form changes a provision in form # \_\_\_\_\_ /Approval Date \_\_\_\_\_  
 Will be used in the following manner \_\_\_\_\_
- (14) Miscellaneous information pertinent to the form \_\_\_\_\_

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 May 19, 1987

TRD-8704225 Nicholas Murphy  
 Chief Clerk  
 State Board of Insurance

Effective date: June 10, 1987  
 Proposal publication date: April 14, 1987  
 For further information, please call  
 (512) 463-6327.

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Chapter 5. Property and  
 Casualty Insurance  
 Subchapter E. Texas Catastrophe  
 Property Insurance Association  
 Standard Policy Forms—  
 Windstorm and Hail

★ 28 TAC §5.4201

The State Board of Insurance adopts an amendment to §5.4201, without changes to the proposed text published in the April 17, 1987, issue of the *Texas Register* (12 TexReg 1290). The amendment to §5.4201 includes an endorsement form adopted by reference. The proposed endorsement form for adoption by reference was not published, but is on file with the Office of the Secretary of State, Texas Register Section.

Section 5.4201 concerns standard policy forms for windstorm and hail insurance. The amendment to the section itself is necessary in order to reflect an amendment to the standard policy forms which the section adopts by reference. The amendment to the standard policy forms is necessary in order to clarify the effect of building code requirements on the eligibility of structures or parts of structures for insurance coverage through the Texas

Catastrophe Property Insurance Association (the association). The board has filed with the secretary of state's office copies of the endorsement form which §5.4201 adopts by reference under the amendment. Persons desiring copies of the endorsement form can obtain copies from the Property Insurance Lines Section of the State Board of Insurance at 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment to §5.4201 adopts by reference TCPIA Form Number 300, Mandatory Breakaway Wall Exclusion Endorsement, by amending the standard policy forms which the section adopts by reference to include the endorsement. The amendment approves use of the endorsement with the Texas Catastrophe Property Insurance Policy-Windstorm and Hail, which the association has issued pursuant to the Texas Catastrophe Property Insurance Pool Act (Texas Insurance

Code, Article 21.49). The endorsement reminds policyholders that breakaway walls and property contained within breakaway enclosures are not covered under a Texas Catastrophe Property Insurance Policy-Windstorm and Hail. Exclusion of breakaway walls from coverage results in availability of windstorm and hail insurance for the remaining part of a structure. Requiring that consideration of insurability include the entire structure would result in disqualification of the entire structure because breakaway walls in part of the structure fail to meet building code requirements for eligibility in the Texas Catastrophe Property Insurance Pool.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49, §8, which provides for approval, modification, or disapproval by the board of policies and endorsement forms for use by the association, and §5A, which provides that the board may issue any orders, including policy forms, which it considers necessary to carry out the purposes of the Texas Catastrophe Property Insurance Pool 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 May 19, 1987.

TRD-8704226 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: July 1, 1987  
Proposal publication date: April 17, 1987  
For further information, please call  
(512) 463-6327.

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**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION  
Part I. General Land Office  
Chapter 1. Executive  
Administration  
Procedures for Vacancy and  
School Land Board Hearings  
★31 TAC §1.61**

The General Land Office adopts an amendment to §1.61, with changes to the proposed text published in the April 3, 1987, issue of the *Texas Register* (12 TexReg 1077).

The amendment brings this section into conformity with the new section concerning practice and procedure adopted by the agency in the April 3, 1987, issue of the *Texas Register*. No substantive changes

are made. Minor changes substituting the word "and" for a comma in the first sentence of the text, adding a comma to the second sentence and changing "H" to "4" are the only changes made.

The amendment will avoid confusion between the special hearing procedures set forth in this section and those procedures in the general rules of practice and procedure set forth in Chapter 4.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law.

§1.61. *Scope.* These rules shall govern the procedure for the institution, conduct, and determination of vacancy proceedings before the General Land Office and all hearings before the School Land Board or boards of lease. For procedures applying to the initiation, conduct, and determination of all other contested cases before the General Land Office where notice and hearing are required, see Chapter 4 of this title (relating to General Rules of Practice and Procedure).

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 May 19, 1987.

TRD-8704211 Garry Mauro  
Commissioner  
General Land Office

Effective date: June 9, 1987  
Proposal publication date: April 3, 1987  
For further information, please call  
(512) 463-5009.

★ ★ ★

**TITLE 40. SOCIAL  
SERVICES AND  
ASSISTANCE  
Part II. Texas Rehabilitation  
Commission  
Chapter 103. Vocational  
Rehabilitation Services  
Program  
Subchapter A. Provision of  
Vocational Rehabilitation  
Services**

**★40 TAC §§103.8, 103.9, 103.14**

The Texas Rehabilitation Commission adopts amendments to §§103.8, 103.9, and 103.14, without changes to the proposed text published in the April 10, 1987, issue of the *Texas Register* (12 TexReg 1173).

The amendments more closely conform the sections to the commission's enabling act.

The amendments inform the public that training may include both vocational and other training; that clients must apply for all reasonably available forms of financial assistance toward training; and that clients may be assisted in securing licenses and permits and may be issued tools, equipment, initial stocks, goods, and supplies.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 7, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility investigation, and determination for hearings, and other regulations necessary to carry out the purposes of this chapter.

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 May 15, 1987.

TRD-8704197 Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Effective date: June 10, 1987  
Proposal publication date: April 10, 1987  
For further information, please call  
(512) 445-8124.

★ ★ ★

**★40 TAC §103.19**

The Texas Rehabilitation Commission adopts the repeal of §103.19, without changes to the proposed text published in the April 10, 1987, issue of the *Texas Register* (12 TexReg 1174).

The repeal deletes obsolete language.

The repeal provides more consistency with the commission's enabling act, specifically relating to the commission's Consumer Advisory Committee.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Title 7, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for hearings, and other regulations necessary to carry out the purposes of this chapter.

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 May 15, 1987.

TRD-8704196 Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Effective date: June 10, 1987  
Proposal publication date: April 10, 1987  
For further information, please call  
(512) 445-8124.

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The Texas Rehabilitation Commission adopts new §103.19, without changes to the proposed text published in the April 10, 1987, issue of the *Texas Register* (12 TexReg 1174).

The new section more closely conforms to the language of the commission's enabling act.

The new section informs the public of the Texas Rehabilitation Commission Consumer Advisory Committee.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Title 7, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for hearings, and other regulations necessary to carry out the purposes of this chapter.

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 May 15, 1987.

TRD-8704195 Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Effective date: June 9, 1987  
Proposal publication date: April 10, 1987  
For further information, please call  
(512) 445-8124.

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## State Board of Insurance Exempt Filings

### State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has considered a request by Atlanta International Insurance Company to withdraw the standard approved Title Insurance Agents Professional Liability Program, and the Title Abstractors Professional Liability Program.

This request is approved to become effective July 1, 1987.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 19, 1987.

TRD-8704229 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: July 1, 1987  
For further information, please call  
(512) 463-6327.

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The State Board of Insurance has considered a filing by CUMIS Insurance Society, Inc., for a revision of the rates and rules for the Credit Union Discovery Bond #NCUA 581, and has adopted the revision of rates and rules therein, to be effective at and after 12:01 a.m. on the fifteenth day after notice of this action is published in the *Texas Register*.

In accordance with the provisions of the Texas Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the Chief Clerk of the State Board of Insurance since September 16, 1986. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The revisions filed by CUMIS Insurance Society, Inc., are as follows:

- (1) a rate increase averaging 5% for the basic bond;
- (2) additional deductible options introduced under the basic bond and several of the optional coverages;
- (3) a rate decrease of 20% for the optional Individual Retirement Accounts Endorsement;
- (4) a \$50 minimum premium for the Individual Retirement Accounts Endorsement;
- (5) An increase in the rates for plastic cards coverage of one cent per card and \$50 increase in the annual minimum premium, from \$250 to \$300.

Manual pages 1 through 12(b) submitted with this filing will replace all pages cur-

rently on file.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 19, 1987.

TRD-8704228 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: June 12, 1987  
For further information, please call  
(512) 463-6327.

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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*.

## Texas Department of Agriculture

**Friday, May 29, 1987, 10 a.m.** The Texas Department of Agriculture will meet in the Ninth Floor Conference Room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include a public hearing to review a petition filed by the Texas Rice Council and the Texas Rice Research Foundation for certification to hold a referendum under the Texas Commodity Referendum Law.

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** May 19, 1987, 10:54 a.m.  
TRD-8704200

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## Texas Animal Health Commission

**Thursday, May 28, 1987, 9 a.m.** The Texas Animal Health Commission will meet in the First Floor Conference Room, 210 Barton Springs Road, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting, actions of executive director, appoint a vice chairman of the commission, hear a report on fiscal and legislative matters, consider amendments to the TAHC personnel manual, changing the temporary preventative quarantine area to a control purpose quarantine area, adopting amendments to the engine regulation, hear a report on progress in the special control counties and report of the committee to study amendments to the following regulations: brucellosis, interstate, scabies, swine, screwworm, fever tick, tuberculosis, and hearing and appeal procedures, and hear presentation of class "B" certificate to Texas. The commission will also meet in executive session.

**Contact:** Jo Anne Connor, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

**Filed:** May 19, 1987, 2:55 p.m.  
TRD-8704217

## State Bar of Texas

**Thursday, May 21, 1987, 9 a.m.** The Executive Committee of the State Bar of Texas made an emergency addition to the agenda of a meeting held in the boardroom, 4408 LongChamp Drive, Austin. The addition concerned adoption of investment policy. The emergency status was necessary because information was not received in time to post with original agenda. It is urgent that the matter be considered at this meeting.

**Contact:** Paula Welch, 1414 Colorado Street, Sutin, Texas 78711, (512) 463-1451.

**Filed:** May 19, 1987, 4:04 p.m.  
TRD-8704224

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## Texas Education Agency

**Thursday and Friday, June 4 and 5, 1987, 1 p.m. and 8:30 a.m., respectively.** The Apprenticeship and Training Advisory Committee (ATAC) of the Texas Education Agency will meet in the Boardwalk Room, Sheraton-Marina Hotel, 300 North Shoreline Boulevard, Corpus Christi. According to the agenda, the committee will hear a report from the ATAC chairperson, report from the director of Employment and Training Division of the Texas Education Agency, report of the subcommittee concerning bylaws, report of the subcommittee concerning finance and budget and planning, discuss apprenticeship and instructor inservice training courses and the promotion of apprenticeship programs, and the legislative process pertaining to funding for the apprenticeship and training programs.

**Contact:** James Woodman, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9294.

**Filed:** May 19, 1987, 12:19 p.m.  
TRD-8704214

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## Employees Retirement System of Texas

**Tuesday, June 2, 1987, 2 p.m.** The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in Room 332, Texas Air Control Board, 6330 U.S. 290 East, Austin. According to the agenda summary, the committee will recognize new members, visitors, and guests; approve minutes of previous meetings; hear report from Subcommittee on Prescription Drug Plan, report from Subcommittee on Dental Plan, consider summary of pending legislation, and related insurance matters.

**Contact:** Henry D. Eckert, 18th and Brazos Streets, Austin, Texas 78701-3207, (512) 476-6431.

**Filed:** May 20, 1987, 11:13 a.m.  
TRD-8704245

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## Texas Employment Commission

**Wednesday, May 25, 1987, 8:30 a.m.** The Texas Employment Commission met in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission approved minutes to the previous meeting, considered internal procedures of commission appeals and acted on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 21.

**Contact:** Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

**Filed:** May 19, 1987, 1:47 p.m.  
TRD-8704216

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## Office of the Governor

**Thursday, June 4, 1987, 9 a.m.** The Task Force on Drug Abuse, Law Enforcement Subcommittee of the Office of the Governor, will meet in Room 221, Bayfront Plaza Convention Center, 1901 North Shoreline, Corpus Christi. According to the agenda summary, the task force will take testimony from all interested parties, including agency representatives, service providers, and the general public regarding development of a statewide strategy to combat substance abuse.

**Contact:** Jim Arnold, 201 East 14th Street, Austin, Texas 78701, (512) 463-1919.

**Filed:** May 21, 1987, 9:12 a.m.  
TRD-8704261

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## Texas Department of Health

**Thursday, May 28, 1987, 10 a.m.** The Task Force on Third Party Reimbursement of the Texas Department of Health, will meet in the Commissioner's Conference Room, G-107, 1100 West 49th Street, Austin. According to the agenda summary, the task force will approve minutes of the previous meeting, hear a report on meeting with Blue Cross medical director, report on Health Care Financing Administration position, and discussion of follow-up activities and schedule.

**Contact:** Albert G. Randall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7770.

**Filed:** May 20, 1987, 8:11 a.m.  
TRD-8704231

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## State Department of Highways and Public Transportation

**Wednesday and Thursday, May 27 and 28, 1987, 10 a.m. daily.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 101 and 101-A, Auditorium, First Floor, Dewitt C. Greer Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will hear presentations by the various highway, bridge, and F.M. Road requests: Sabine and San Augustine Counties, Travis County, Harris and Montgomery Counties; Travis and Williamson Counties, Freestone County, and Travis and Williamson Counties; execute contract awards and routine minute orders, consider decisions on presentations from public hearing dockets, and review staff reports relative to planning and construction programs and projects.

**Contact:** Lois Jean Turner, Dewitt C. Greer Highway Building, Room 203, 11th and Brazos Streets, Austin, Texas 78701, (512) 463-8616.

**Filed:** May 19, 1987, 2:36 p.m.  
TRD-8704222

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## Texas Housing Agency

**Thursday, May 21, 1987, 9 a.m.** The Multi-Family Committee of the Texas Housing Agency made an emergency addition to the agenda for a meeting held in the THA Conference Room, Suite 300, 811 Barton Springs Road, Austin. The addition concerned recommendation to the Board of Directors to induce the Del Norte Apartments, a 128 unit multi-family development in Laredo. The emergency status was necessary because the new item is needed to provide decent, safe, sanitary housing for Texans of low and moderate income.

**Contact:** Dan McNeil, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

**Filed:** May 20, 1987, 4:40 p.m.  
TRD-8704259

**Wednesday, May 27, 1987, 10 a.m.** The Board of Directors of the Texas Housing Agency will meet in the THA Conference Room, Suite 300, 811 Barton Springs Road, Austin. According to the agenda summary, the board will hear the single family program report, consider bond and mortgage credit certificate authority, REO properties, hear the multi-family report, consider applications and rule changes concerning the THA tax credit program, Marine Midland Bank elderly proposal, bond series 1987A, hear financial reports, consider legislative matters, hear Finance and Audit Committee reports concerning the fiscal year 1987 budgets; refunding requests; RFPs; underwriters list; THA structure; management letter responses; merger; REOs and management and computer system; consider 1987 bonds; south Texas housing proposal; and board resolutions. The board will also meet in executive session to consider personnel matters.

**Contact:** Dan A. McNeil, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

**Filed:** May 19, 1987, 4:23 p.m.  
TRD-8704230

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## Texas Industrial Accident Board

**Tuesday, May 26, 1987, 9:30 a.m.** The Texas Industrial Accident Board will meet in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board will approve minutes of the previous meeting, consider staff proposal on award's processing, prehearing personnel, and review and discuss board activities. The board will also meet in executive session to consider prehearing personnel and review board files pursuant to worker's compensation statute.

**Contact:** Inez "Tippy" Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

**Filed:** May 20, 1987, 3:37 p.m.  
TRD-8704255

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## State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Thursday, May 28, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider the motion to dismiss in regard to determining whether American Surety Company, British West Indies, has complied with commissioner's order 87-0416, dated April 24, 1987.

**Contact:** O.A. Cassidy, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

**Filed:** May 20, 1987, 9:23 a.m.  
TRD-8704242

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## Texas Department of Labor and Standards

**Tuesday, June 16, 1987, 9 a.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards, will meet in Room 105, E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will consider suspension or revocation of the manufactured housing registration of Sunrizon Homes, Inc. and Austin Housing Corporation for violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3127.

**Filed:** May 20, 1987, 2:44 p.m.  
TRD-8704253

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## Texas Board of Land Surveying

**Thursday-Friday, June 25-26, 1987, 8 a.m. daily.** The Third Regular Meeting of the Texas Board of Land Surveying, will meet in Suite 304, 7703 North Lamar Boulevard, Austin. According to the agenda, the board will approve minutes of the previous meeting, conduct interviews, discuss correspondence, hear committee reports, review new applications, reconsider old applications, prepare the August 1987 examinations, and consider any other business to come before the board.

**Contact:** Betty J. Pope, 7703 North Lamar Boulevard, Suite 304, Austin, Texas 78752, (512) 452-9427.

Filed: May 19, 1987, 10:27 a.m.  
TRD-8704199

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### Texas Mohair Producers Board

**Tuesday, June 2, 1987, 10 a.m.** The Texas Mohair Producers Board of the Texas Department of Agriculture will meet in the River Club, 800 West Avenue D, San Angelo. According to the agenda, the board will approve minutes of the previous meeting, hear financial reports, and consider old and new business.

**Contact:** Robert M. Paschal, P.O. Box 5337, San Angelo, Texas 76902, (915) 655-3161.

**Filed:** May 19, 1987, 10:53 a.m.  
TRD-8704201

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### State Board of Plumbing Examiners

**Monday, June 1, 1987, 9:30 a.m.** The State Board of Plumbing Examiners, will meet at 929 East 41st Street, Austin. According to the agenda, the board will approve minutes of the previous meeting, review financial report, hear report on study of examinations by the Measurement and Evaluation Center at the University of Texas at Austin, discuss hardship cases, hear report on roster, report on sale of study guide, report on new license card, review examination data, discuss legislation, consider inclusion of license number in advertising, and testing and installation of backflow preventers.

**Contact:** Lynn Brown, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

**Filed:** May 19, 1987, 10:28 a.m.  
TRD-8704198

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### Texas State Board of Public Accountancy

The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Dates, times, and agendas follow.

**Thursday, May 28, 1987, 9 a.m.** The Panel Hearings (Continuing Education) will consider testimony heard on May 14, 1987.

**Contact:** Bob E. Bradley, 1033 La Posada, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 20, 1987, 4:10 p.m.  
TRD-8704256

**Friday, May 29, 1987, 8:30 a.m.** The Technical Standards Review Committee, will discuss complaints 87-03-03L, 87-03-05L, 87-03-04L, 87-03-16L, 86-11-11L, 87-03-14L, 87-03-07L, 87-03-13L, and other items.

**Contact:** Bob E. Bradley, 1033 La Posada,

Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 20, 1987, 4:10 p.m.  
TRD-8704257

**Friday, May 29, 1987, 9 a.m.** The Informal Conference will review complaint numbers 86-06-16L, 86-06-15L, 86-06-12L, 86-06-13L, 86-06-14L, 86-05-14L, 86-05-15L, 86-05-16L, 86-05-17L, 86-05-18L, 86-05-19L, 86-05-20L, 86-05-21L, 86-05-22L, 86-05-23L, 86-06-03L, 86-06-02L, 86-10-05L, and 86-10-06L.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 20, 1987, 4:10 p.m.  
TRD-8704258

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### Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

**Wednesday, May 27, 1987, 9 a.m.** The Hearings Division will consider Dockets 7279, 6669, 7212, 7330, 7197, 7198, 7217, 7378, 7398, 7002, 7216, and 7402, consider for permanent adoption admendments to substantive rules §23.23 concerning rate design and corrections to the long-term electric peak demand capacity resource forecast for Texas 1986.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 19, 1987, 3:15 p.m.  
TRD-8704219

**Wednesday, May 27, 1987, 11 a.m.** The Administrative Division will approve minutes to the previous meeting, hear reports, and discuss and act on budget and fiscal matters. The division will also meet in executive session to consider personnel matters and reconvene for decisions on matters considered in executive session.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 19, 1987, 3:15 p.m.  
TRD-8704220

**Tuesday, June 2, 1987, 10 a.m.** The Hearings Division will consider Docket 7489—Application of General Telephone Company of the Southwest for amendment of its 976 service tariff.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 20, 1987, 2:37 p.m.  
TRD-8704254

**Tuesday, June 30, 1987, 9 a.m.** The Hearings Division will consider Docket 6449—

Application of Lower Colorado River Authority for approval of standard avoided cost calculation.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 19, 1987, 3:15 p.m.  
TRD-8704221

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### The Advisory Council for Technical-Vocational Education in Texas

**Monday and Tuesday, June 29 and 30, 1987, 8 a.m. and 8:30 a.m., respectively.** The Advisory Council for Technical-Vocational Education in Texas will meet in the Stagecoach Inn, Old Chisholm Trail, Salado. According to the agenda summary, the council will receive a legislative update on actions of the 70th Legislature, an update on State Board of Education actions, an update on the Governor's Task Force on Voc Ed, review council achievements in 1986-1987, dialogue among council members regarding the council's role, direction, past accomplishments, and proposed activities for 1987-1988, discuss the 1987-1988 schedule of work, discuss the council budget for 1987-1988, elect officers, and conduct other business.

**Contact:** Val Blaschke, P.O. Box 1886, Austin, Texas 78701, (512) 463-5490.

**Filed:** May 20, 1987, 1:53 p.m.  
TRD-8704249

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### Board of Veterinary Medical Examiners

**Thursday-Saturday, June 11-13, 1987, 8 a.m. daily.** The Board of Veterinary Medical Examiners will meet in the Wyndham Hotel, 4140 Governor's Row, Austin. According to the agenda summary, the board will conduct disciplinary hearings, adopt and propose administrative and professional conduct rules, approve examination results, review Practice Act revisions, establish board meeting dates and locations, and conduct other general business. The board will also meet in executive session on Saturday, June 13, 1987.

**Contact:** Donald B. Wilson, 3810 Medical Parkway, Suite 1190, Austin, Texas 78756, (512) 458-1183.

**Filed:** May 19, 1987, 3:41 p.m.  
TRD-8704223

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### Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

**Wednesday, May 27, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5682 of Austin Bridge Company for a permit to divert and use 32 acre-feet of water for a two year period from Sycamore Creek, tributary West Fork River, tributary Trinity River, Trinity River Basin for highway construction purposes in Tarrant County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:30 a.m.  
TRD-8704208

**Wednesday, May 27, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5683 of the City of Fort Worth for a permit to divert and use 400 acre-feet of water for a one year period from Clear Fork Trinity River, tributary Trinity River, Trinity River Basin for irrigation purposes in Tarrant County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:30 a.m.  
TRD-8704209

**Wednesday, June 3, 1987, 2 p.m.** the commission will meet in Room 118, to consider the executive director's motion requesting an order of the Texas Water Commission requiring SAR Water Company, Inc. to provide continuous and adequate service (certificate of convenience and necessity 11790 in Trinity County).

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:32 a.m.  
TRD-8704206

**Thursday, June 18, 1987, 10 a.m.** The Office of Hearings Examiner will meet in Room 618, to consider Docket 6197-C—Applications to amend water CCN W-10892 and sewer CCN 20354 which were filed by the City of Hillsboro.

**Contact:** Steve Dickman or James Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** May 20, 1987, 11:35 a.m.  
TRD-8704247

**Tuesday, June 30, 1987, 2 p.m.** The commission will meet in Room 118, to consider hearing for the petition for creation of West Travis County Municipal Utility District, #1, containing 1411.74 acres of land.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:33 a.m.  
TRD-8704204

**Tuesday, June 30, 1987, 2 p.m.** The commission will meet in Room 118, to consider hearing for the petition for creation of West Travis County Municipal Utility District #2, containing 328.38 acres of land.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:32 a.m.  
TRD-8704205

**Monday, July 6, 1987, 10 a.m.** The Office of Hearings Examiner will meet in Room 512, to consider complaint proceeding concerning the service rendered and the rates charged by Cibolo Oaks Joint Venture Water Company.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:31 a.m.  
TRD-8704210

**Monday, August 10, 1987, 10 a.m.** The Office of Hearings Examiner will meet in Room 512, to consider preliminary report and petition of the executive director requesting assessment of administrative penalties and requirement of certain actions on Donald B. Copeland.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 19, 1987, 11:32 a.m.  
TRD-8704207

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### Texas Water Development Board

**Thursday, May 21, 1987, 9:30 a.m.** The Texas Water Development Board made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned consideration and approval of a contract for proposed projects to implement computer systems for development fund portfolio management accounting and operational accounting. The emergency status was necessary because the board needs to have a computer system operational for development fund and operational accounting by September 1, 1987, when it anticipates assumption of its accounting functions from the Texas Water Commission. The board must consider proposals at this board meeting so other work can begin immediately and can be completed by the end of the current fiscal year.

**Contact:** M. Reginald Arnold II, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

**Filed:** May 20, 1987, 11:52 a.m.  
TRD-8704248

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### Texas Youth Commission

**Thursday, May 21, 1987, 10 a.m.** The board of the Texas Youth Commission made an emergency addition to the agenda for a meeting held at 8900 Shoal Creek Boulevard, Austin. The addition concerned a meeting in executive session concerning Crockett State School dormitories and construction liability issue. The emergency status was necessary because of receipt of a report that indicates litigation may be necessary.

**Contact:** Ron Jackson, 8900 Shoal Creek Boulevard, Austin, Texas 78766, (512) 452-8111.

**Filed:** May 19, 1987, 11:22 a.m.  
TRD-8704203

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### Regional Agencies

#### Meetings Filed May 19

**The Alamo Area Council of Governments,** Executive Committee, will meet in Room 420, Suite 400, Atlee B. Ayres Building, 118 Broadway, San Antonio, on May 27, 1987, at 12:30 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

**The Bexar Appraisal District,** Appraisal Review Board, met at 535 South Main, San Antonio, on May 22, 1987, at 9 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Deep East Texas Regional Mental Health and Mental Retardation Services,** Board of Trustees, will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on May 26, 1987, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 384-5704.

**The Kendall County Appraisal District,** Appraisal Review Board, will meet at 207 East San Antonio Street, Boerne, on May 26, 1987, at 1 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

TRD-8704215

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#### Meetings Filed May 20

**The Brazos River Authority,** Water Utilization Committee, met at 4400 Cobbs Drive, Waco, on May 21, 1987, at 3 p.m. Information may be obtained from Mike Bukala, P.O. Box 755, Waco, Texas 76714-7555, (817) 776-1441.

**The Central Appraisal District of Johnson County**, Appraisal Review Board, will meet at 109 North Main, Cleburne, on June 1, 1987, at 9 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

**The Education Service Center, Region VIII**, Board of Directors, will meet at F.M. Road 1734, Mount Pleasant, on May 28, 1987, at 7 p.m. Information may be obtained from Scott Ferguson, F.M. Road 1734, Mount Pleasant, Texas 75455, (214) 572-8552.

**The Education Service Center, Region XVIII**, Board of Directors, will meet at 2811 LaForce Boulevard, Midland, on June 4, 1987, at 7:30 p.m. Information may be obtained from J.W. Donaldson, P.O. Box 6020, Midland, Texas 79711, (915) 563-2380.

**The Heart of Texas Council of Governments**, Executive Committee, will meet at 320 Franklin Avenue, Waco, on May 28, 1987, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

**The Lee County Appraisal District**, Board of Directors, will meet at 218 East Richmond Street, Giddings, on May 27, 1987, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Middle Rio Grande Development Council**, Board of Directors, will meet in the Civic Center, 405 North Seventh, Carrizo Springs, on May 27, 1987, at 1:30 p.m. Information may be obtained from Ramon S. Johnston, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

**The Panhandle Regional Planning Commission**, Board of Directors, will meet in the PRPC Conference Room, 2736 West 10th Avenue, Amarillo, on May 28, 1987, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381.

**The South East Texas Regional Planning Commission**, Executive Committee, will meet in the City of Orange Council Chambers, 220 North Fifth, Orange, on May 27, 1987, at 7 p.m. Information may be obtained

from Jackie Vice, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384.

**The Tyler County Tax Appraisal District**, Board of Directors, will meet at 103 Pecan, Woodville, on June 2, 1987, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8704239

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#### Meetings Filed May 21

**The San Antonio River Industrial Development Authority**, Board of Directors, will meet at 100 East Guenther Street, San Antonio, on May 28, 1987, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9287, San Antonio, Texas 78204, (512) 227-1373.

**The San Patricio County Appraisal District**, Board of Directors, will meet in the Courthouse Annex, Sinton, on June 11, 1987, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-8704260

# 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.

## Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of May 4-8, 1987.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Conoco, Inc., McCamey; gas flare and tanks; McCamey, Upton County; 18086; new

Printing Center, Fort Worth; printing press; Fort Worth, Tarrant County; 18090; new

Coastal Oil and Gas, Tokio; TB and flare; Tokio, Terry County; 18092; new

Fort Worth Star Telegram, Edgecliff; newspaper printing; Edgecliff, Tarrant County; 18094; new

Vam Products Company, Inc., Jersey Village; mixing/blending plant; Jersey Village, Harris County; 18096; new

Issued in Austin, Texas, on May 18, 1987.

TRD-8704187 Bill Ehret  
Director of Hearings  
Texas Air Control Board

Filed: May 18, 1987  
For further information, please call (512) 451-5711, ext. 354

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## Texas Commission on Alcohol and Drug Abuse

### Notice of Request for Proposals

The Texas Commission on Alcohol and Drug Abuse, under the authority of the Texas Alcohol and Drug Abuse Services Act, Texas Civil Statutes, Article 5561c-2, gives notice of three requests for proposals (RFPs). Recognizing that

a significant proportion of persons in Texas correctional, juvenile justice, and criminal justice systems exhibit alcohol and drug abuse problems, the commission is soliciting proposals under its justice initiative for the development or expansion of community-based alcohol and drug abuse treatment services for adult and juvenile offenders.

To be eligible for funding, applicants must be either a public entity or private nonprofit corporation and be licensed for the proposed treatment service by the commission. Inpatient hospital services are prohibited by the federal legislation that authorizes these funds.

The three RFPs are as follows:

(1) **Juvenile Offender Residential (JOR)**—Residential treatment program for juvenile offenders, age 10-18, to be located in Bexar County with a statewide catchment area. Priority for admission will be given to inhalant abusers and programming will accommodate the violent nature of offenders. \$500,000 is available for one program.

(2) **Justice Methadone-Naltrexone Outpatient (JMO)**—Methadone outpatient program to serve Harris County. Preference will be given to programs which target services to individuals involved in the criminal justice system. \$300,000 is available for approximately 150 treatment slots, some of which may be naltrexone, with a counseling component.

(3) **Justice Initiative Treatment (JIT)**—Outpatient and residential services for adult probationers in Nueces and Hidalgo counties and adult parolees in Harris County. A total of \$500,000 is available for services in the three counties.

Applicants are to submit a 12-month budget; however, the first award period is December 1, 1987, through August 31, 1988. Funding of applications under the RFPs is contingent on appropriations received by the commission.

The closing date for receipt of applications by the commission is 5 p.m. on August 31, 1987, and the closing date for review under the Texas Review and Comment System is July 16, 1987.

To request a copy of an RFP, write Grants Management at Texas Commission on Alcohol and Drug Abuse, Grants Management, 1705 Guadalupe, Austin, Texas 78701-1214; or call the Grants Management office at (512) 463-5510.

Issued in Austin, Texas, on May 15, 1987.

TRD-8704191 Ross Newby  
Executive Director  
Texas Commission Alcohol and Drug  
Abuse

Filed: May 18, 1987  
For further information, please call (512) 463-5510.

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## Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on April 24, 1987, the Court Reporters Certification Board has certified to the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to the Government Code, Texas Civil Statutes, Subchapter C, §52.024(a).

Oral Stenography: Betty D. Morgan—Venus; Teresa R. Navarro Villarreal—Edinburg.

Machine Shorthand: Julian G. Alderette—Pinneville, LA; Dana Sue Alderman—Fort Worth; Barbara J. Anderson—Garland; Lyn Marie Bartholomew—Plano; Pamela Sue Bauer—North Richland Hills; Karen M. Bauer—Houston; Teresa Ann Bentley—Pasadena; Jo F. Blassingame—Sumner; Melinda Ann Brackin—DeSoto; Mary Lou Calles—Alvin; Barbara J. Carlson—Houston; Cynthia Monique Cavazos—Harlingen; Christy L. Coggins—Fort Worth; LaRita Johnell Cormier—Houston; Tobi Lynn Dement—Austin; Madonna Gehen—Dallas; Kimberly Dawn Glover—Oklahoma City, OK; Patricia Louise Greenwood—Friendswood; Dixie Lee Gunderman—Fort Worth; Monica Jeanne Hasbrook—San Antonio; Brian K. Hawkins—DeSoto; Gloria F. Howard—Garland; Gregory B. Hunt—Dallas; Tammy Sue Jay—San Antonio; Sandra Thomas Ladd—Amarillo; Cathy Lynn LeBlanc—San Antonio; Shelley Melinda Lowder—Irving; Kimberly Ann Mee—Plano; Lorraine Susan Michal—Houston; Esther Therese Modliszewski—San Antonio; Grace Ann Molina—Edna; Stephanie Garrett Moore—San Antonio; Erin Michelle Nail—Mineral Wells; LaWana Margareta Riddle—Fort Worth; Barbara Joan Sebbas—Dallas; Jana Harris Smith—Irving; Tammie Lue Smith—Fort Worth; Mary Eugenia Snow—Cincinnati, OH; Linda Ann Tate—Houston; Gladys Rose Tinsley—Austin; Andrea Gaynelle Tozer—Corpus Christi; Laura Fearis Turner—Waxahachie; Tracey Lee Turner—Alvin; Catherine Virginia Vecchio—Grand Prairie.

Issued in Austin, Texas, on May 15, 1987.

TRD-8704167 Peggy Liedtke  
Executive Secretary  
Court Reporters Certification Board

Filed: May 18, 1987  
For further information, please call (512) 463-1630.

### ★ ★ ★ Texas Economic Development Commission Private Activity Bond Allocation Report

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1987 is \$1,227,750,000.

The Tax Act and the Internal Revenue Code of 1986 authorize the governor of a state to proclaim a formula for allocating the state ceiling among the governmental units (or other authorities) in such state having authority to issue private activity bonds. Executive Order MW-40A establishes the procedures for the 1987 allocation for the state ceiling on private activity bonds.

It specifies that no more than an aggregate amount of \$327,750,000 may be reserved by local housing finance corporations for the purpose of issuing qualified mortgage

bonds, no more than an aggregate amount of \$200 million may be reserved by issuers of state-voted issues (no more than \$100 million of which may be reserved by any one such issuer), and no more than an aggregate of \$700 million may be reserved for all other bonds requiring an allocation.

Generally, the state ceiling will be allocated on a first-come, first-served basis within the applicable subceiling, with the Texas Economic Development Commission (the commission) administering the allocation system.

The information that follows is a summary report of the allocation activity for the period May 8, 1987-May 15, 1987.

#### Weekly Report on the 1987 Allocation of the State Ceiling on Certain Private Activity Bonds as Pursuant to Executive Order MW-40A

Total amount of state ceiling remaining unreserved for the \$327,750,000 subceiling for qualified mortgage bonds through May 15, 1987: \$8,245,675.

Total amount of state ceiling remaining unreserved for the \$200 million subceiling for state-voted issues May 8, 1987-May 15, 1987: \$200,000,000.

Total amount of state ceiling remaining unreserved for the \$700 million subceiling for all other bonds May 8, 1987-May 15, 1987: \$428,320,000.

Total amount of the \$1,227,750,000 state ceiling remaining unreserved as of May 15, 1987: \$636,565,675.

Comprehensive listing of bond issues which have received a reservation date per Executive Order MW-40A from May 8, 1987-May 15, 1987: None.

Comprehensive listing of bonds issued and delivered as per Executive Order MW-40A May 8, 1987-May 15, 1987: None.

Issued in Austin, Texas, on May 18, 1987.

TRD-8704241 David V. Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed: May 20, 1987  
For further information, please call (512) 472-5059.

### ★ ★ ★ Texas Education Agency Consultant Contract Award—Correction

The April 24, 1987, issue of the *Texas Register* (12 TexReg 1405) announced the award of a contract to conduct support services for the Texas Educational Assessment of Minimum Skills (TEAMS) for 1987-1989 in an amount not to exceed \$9,454,633 to National Computer Systems, P.O. Box 30, Iowa City, Iowa 52244, with a contract period of April 1, 1987-August 31, 1989. The April 24, 1987, announcement is corrected to indicate that the amount of the award is \$200,000 and that the contract period is April 1, 1987-August 31, 1987.

Materials produced as a result of this contract are secure, as specified in the Texas Education Code, 21.556.

Issued in Austin, Texas, on May 18, 1987.

TRD-8704213 W. N. Kirby  
Commissioner of Education

Filed: May 19, 1987  
For further information, please call (512) 463-9212.

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## Consultant Contract Award

**Description.** After publication of a consultant proposal request in the October 3, 1986, issue of the *Texas Register* (11 TexReg 4180), the Texas Education Agency executed a contract with Nu-Stats, Inc., to identify education programs successfully implementing research-based practices and to develop methods to disseminate these practices to other school districts.

**Name of Consultant.** Nu-Stats, Inc., 816 Congress Avenue, Suite 1240, Austin, Texas 78701.

**Amount of Contract.** The total amount of the contract is \$368,723.00.

**Dates of Contract.** The contract period begins January 12, 1987, and ends June 30, 1988.

The consultant will work closely with the Texas Education Agency staff on a continuing basis and no one final written report will be required.

Issued in Austin, Texas, on May 15, 1987.

TRD-8704212      W. N. Kirby  
Commissioner of Education

Filed: May 19, 1987  
For further information, please call (512) 463-9212.

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## Request for Application

The Texas Education Agency is requesting applications for *The Community School Concept: A Campus Model for School Improvement Through Community Involvement* from school districts and nonprofit organizations. In all applications the school district must be the fiscal agent and custodian of the funds. This project seeks to implement a community/campus model for involving parents and the community in the decision-making processes of the school. The overall objective is for the school, parents, and community to work as a whole to be responsive to the wide-ranging educational needs of the community population. Specific goals and objectives may include the correlates found in effective schools research such as: a positive school climate; shared goals and expectations for learning among students, teachers, and parents; strong parental and community involvement; a clear sense of school ownership by students, teachers, parents, and community; strong instructional leadership in the building; continuous staff development; good communication between teachers and administrators and accessibility to parents and other community members; and high quality staff and instruction. Strategies which may be used may include but are not limited to: implementing instructional programs to assist students with special needs; organizing programs that teach parents skills to assist their children in academic reinforcement at home; a program to provide training for parents in the basic skills which helps parents with these skills to motivate and assist their children; empowering teachers and parents to make decisions that affect their school and community; and developing strategic plans for achieving long-range instructional and community involvement goals.

This project is funded through the United States Department of Education, Education Consolidation and Improvement Act (ECIA), Chapter 2 programs and will be administered by the Assistant Commissioner for Program Development. The contract will be for June, 1987-August,

1988. Selection of the contractor will be based on the contractor's capacity to develop a community/campus model for involving parents and the community in the decision-making processes of the school.

A copy of the complete request for application may be obtained by calling or writing the Document Control Center, Room 6-108, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Applications may be delivered by mail or in person to the Texas Education Agency Document Control Center. Applications received after 5 p.m. on Monday, June 29, 1987, will not be considered for funding.

Issued in Austin, Texas, on May 18, 1987.

TRD-8704240      W. N. Kirby  
Commissioner of Education

Filed: May 20, 1987  
For further information, please call (512) 463-9212.

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## Office of the Governor Correction of Error

Governor's proclamations submitted by the Office of the Governor contained errors as published in the May 15, 1987, issue of the *Texas Register* (12 TexReg 1557). The proclamations were erroneously cited. The proper proclamation citations should read: "Proclamation 41-2127" and "Proclamation 41-2128."

## Texas Department of Human Services Consultant Proposal Request

The Texas Department of Human Services (TDHS) is requesting a proposal for consultant/data collection services. The request is filed under the provisions of the Texas Civil Statutes, Article 6252-11c.

**Description.** The proposed contract term is for state fiscal years 1988 and 1989 (September 1, 1987, to August 31, 1989). Specific activities to be performed are:

(A) provide research, methodological, statistical, and data processing consultation for research projects to develop case mix reimbursement systems for the Texas Medicaid SNF/ICF and ICF-MR Programs and for pilot projects to demonstrate these systems;

(B) assist Economic Analysis Division staff in special statistical analyses of cost data for all program areas and in conjunction with any litigated issue;

(C) create, manage, and maintain Economic Analysis Division data base systems on IBM-AT's, a UNIVAC 1100 computer, and an IBM 3081 computer.

**Budget Limitations.** The total amount of this contract shall not exceed \$100,000 during the two years. It is anticipated that \$60,000 or 60% of this amount will be covered by federal research grant funds.

**Contact.** Prospective bidders may contact Steve Scarborough, Economic Analysis Division, Mail Code 142-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, (512) 450-3089.

**Evaluation.** Procedures to be used to evaluate offers will include assessment of:

(A) experience with research to develop Medicaid case mix payment system;

(B) experience with the operation of the Department of Human Services' Texas Medicaid Long Term Care Program and experience analyzing data relevant to that program;

(C) proficiency in analyzing cost data for Primary Home Care, Family Care, 24-hour Child Care facilities, and other TDHS programs;

(D) skill in the development and application of data management techniques, computer programming, research design techniques, and multi-variate statistical techniques;

(E) reasonableness of proposed cost of service in relation to the work described;

(F) all bids must be quoted at an hourly rate charged and must estimate the number of hours anticipated to complete the above-mentioned tasks.

**Closing and Effective Date.** The closing date for receipt of offers is 5 p.m. on the fourteenth calendar day following the date of publication of this announcement, and the effective date is September 1, 1987.

**Selection.** Award will not necessarily be made to the bidder offering the lowest price. Selection will be based on a combination of price and the department's evaluation of the other criteria listed above.

This invitation for bids is a continuation of work performed by Robert Godbout, Ph.D., under a previous contract. TDHS intends to award the contract to this person unless a substantially superior proposal is received.

Issued in Austin, Texas, on May 20, 1987.

TRD-8704238      Marlin W. Johnston  
Commissioner  
Texas Department of Human Services

Filed: May 20, 1987  
For further information, please call (512) 450-3766.

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## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of May 11-15, 1987.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the

facility; permit number; and type of application—new permit, amendment, or renewal.

### Period of May 11-15, 1987

Harris County MUD #196, Houston; wastewater treatment facilities; approximately 1.7 miles south of the intersection of U.S. Highway 290 and Barker-Cypress Road at a point approximately 3,000 feet east of Barker-Cypress Road in Harris County; 12447-01; renewal

High Meadows Company, Houston; wastewater treatment facilities; approximately 1,000 feet south of Aldine Mail Road between John F. Kennedy Boulevard and Gloger Road in Harris County; 10812-01; renewal

Cross Roads Independent School District, Malakoff; wastewater treatment facilities; approximately 950 feet northeast of the intersection of FM Roads 59 and 3441; adjacent to the high school site in the southeastern portion of Henderson County; 13372-01; new

City of Bridge City; sewage treatment plant; on Bower Drive, approximately 2,000 feet southeast of the State Highway 87 bridge over Cow Bayou within Bridge City in Orange County; 10051-01; amendment

Big Three Industries, Inc., Pasadena; air separation plant which manufactures oxygen, nitrogen, and argon; at the northwest corner of Bay Area Boulevard and Choate Road in the City of Pasadena in Harris County; 02916; new

City of Wylie; wastewater treatment facilities; south of State Highway 78 and west of Birmingham Street, in the southwestern section of Wylie in Collin County; 10384-01; renewal

Marshalsea Industries, Inc., doing business as Spinks Industries, Inc., Fort Worth; wastewater treatment facilities; on FM Road 1187, approximately 1½ miles east of IH 35 West, south of Fort Worth, in Tarrant County; 10791-01; renewal

Big Three Industries, Houston; office, laboratory, and truck washing facility; on the north side of West Little York Road and approximately 4,000 feet east of Addicks Fairbanks Road, Harris County; 02543; renewal

City of Houston; wastewater treatment plant; at 13000 Westheimer Road (FM Road 1093) approximately two miles east of U.S. Highway 6 and west of the City of Houston in Harris County; 10495-117; renewal

Faust Properties, Inc., Houston; wastewater treatment plant; approximately 800 feet north of Zaka Road, west of Windfern Road at the southeast corner of Maple Leaf Gardens in Harris County; 12342-01; renewal

Parkway Investments/Texas, Inc., Houston; wastewater treatment facilities; at the northwest corner at the crossing of Hempstead Highway over Cole Creek in the Northwest quadrant of Houston in Harris County; 12468-01; renewal

Boring Specialties, Inc., Houston; wastewater treatment facilities; at 14730 Yarberry Street; approximately .5 mile southeast of the intersection of Hardy Road and Aldine-Bender Road (FM Road 525) in Harris County; 12484-01; renewal

Quail Valley Utility District, Stafford; wastewater treatment facilities; 600 feet south of the terminus of Nancy Belle Lane at the confluence of Stafford Run and Oyster Creek, 2½ miles south of the City of Stafford in Fort Bend County; 11046-01; renewal

Texas Department of Corrections, Huntsville; wastewater treatment facilities; approximately 3.8 miles west-northwest of the intersection of State Highway 6 and FM Road 1227 within the boundaries of the Pack I State Prison Farm in Grimes County; 12458-01; renewal

City of Palestine; wastewater treatment plant; on the east side of Palestine, north of the Missouri Pacific Railroad Track, approximately 1,000 feet east of the intersection of the railroad and State Highway Loop 256 in Anderson County; 10244-02; renewal

City of Hudson; wastewater treatment facilities, Lufkin; wastewater treatment facilities; approximately .8 mile east of the intersection of State Highway 94 and FM Road 3258, approximately .8 mile south of the intersection of State Highway 94 and FM Road 706 in Angelina County; 11826-01; renewal

The Texas Department of Corrections, Huntsville; wastewater treatment facilities; approximately four miles southeast of the intersection of State Highway

35 and FM Road 521, approximately three miles north of FM Road 2004 and State Highway 332 in Brazoria County; 10829-01; renewal

City of Azle; wastewater treatment facilities; between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road, west of Eagle Mountain Lake on Ash Creek in Tarrant County; 11183-02; amendment

Johnson/Universal JV, Houston; wastewater treatment plant; approximately 4,400 feet southeast of the intersection of Clear Creek Road and U.S. Highway 190, 3,700 feet east of Clear Creek Road and 500 feet north of Water Crest Road in Bell County; 13358-01 new

Issued in Austin, Texas, on May 18, 1987.

TRD-8704181

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

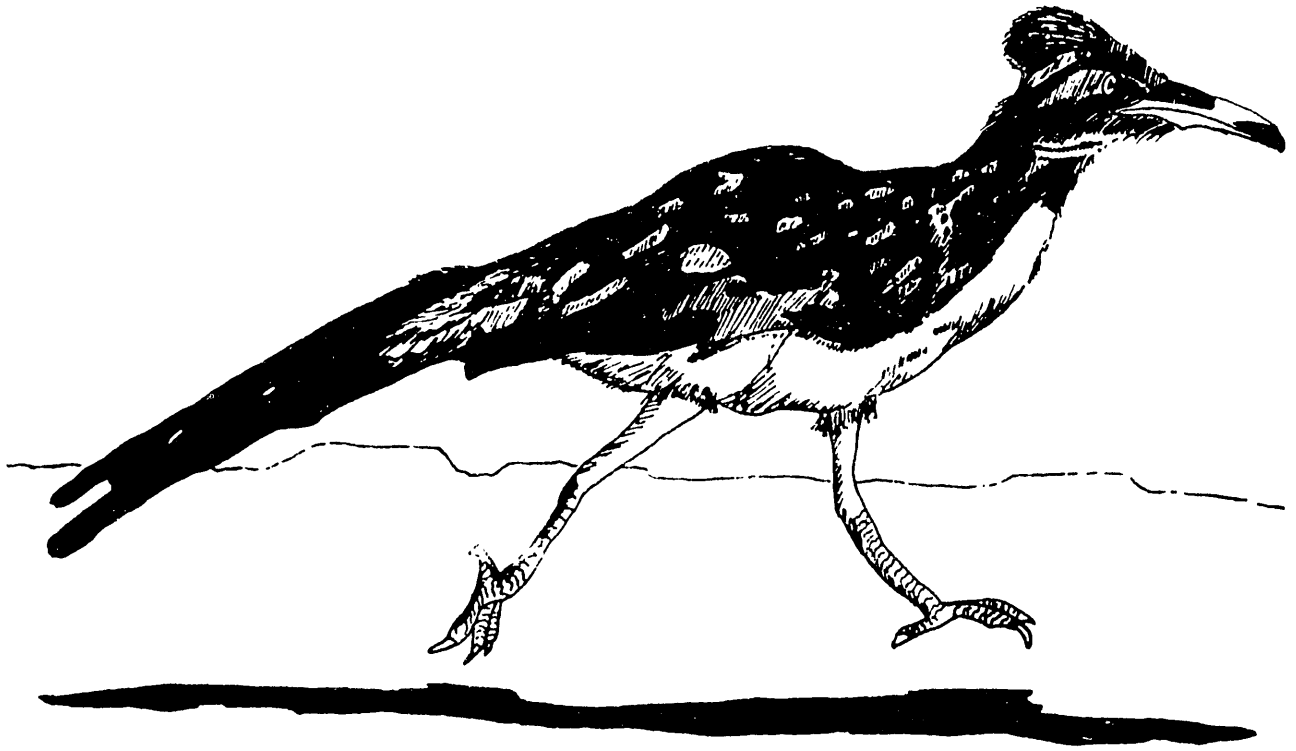
Filed: May 18, 1987

For further information, please call (512) 463-7898.

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Name: Ronny Turner  
Grade: 12  
School: Haltom High School, Fort Worth

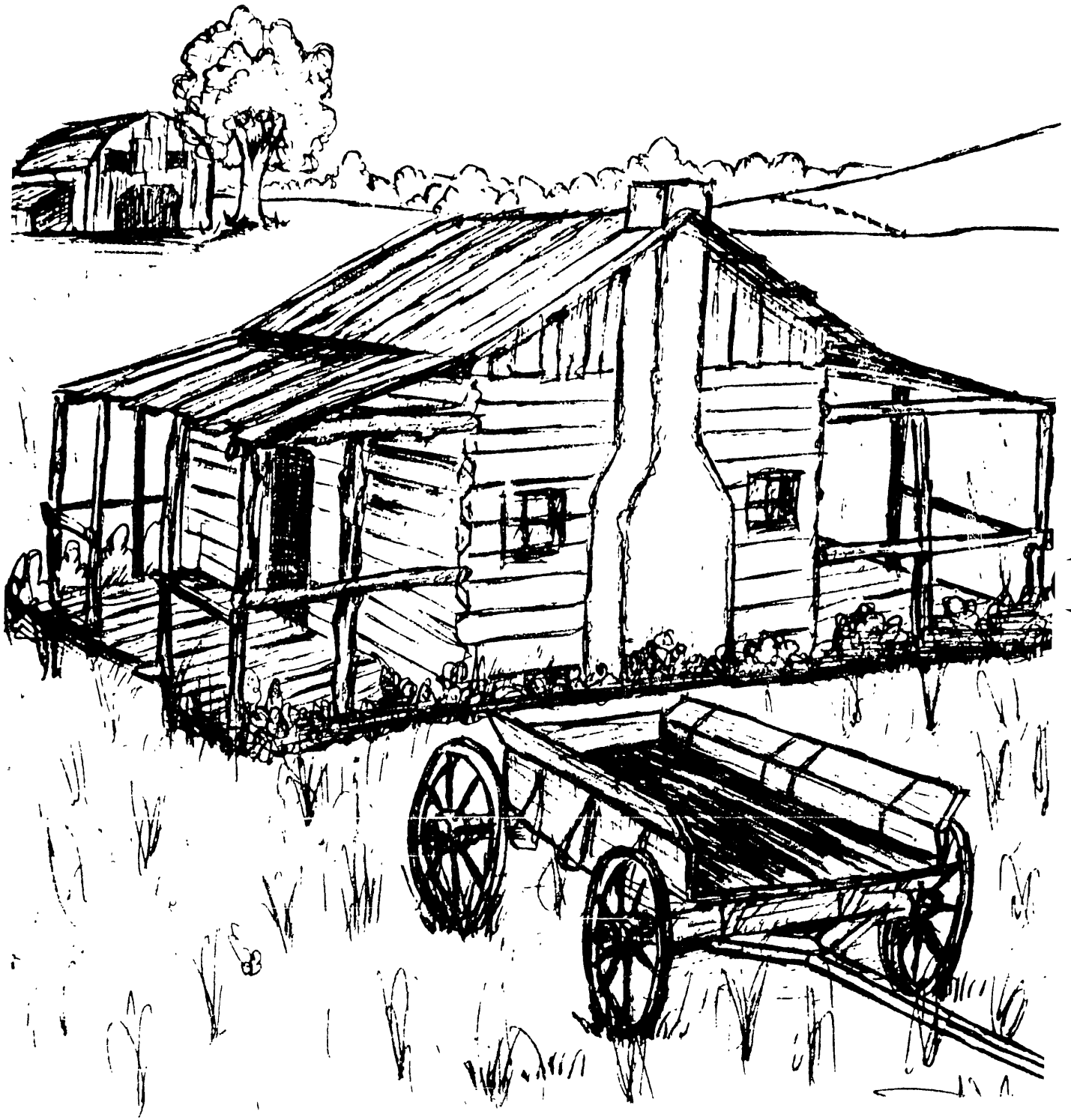


Name: Donald Galindo  
Grade: 12  
School: Haltom High School, Fort Worth

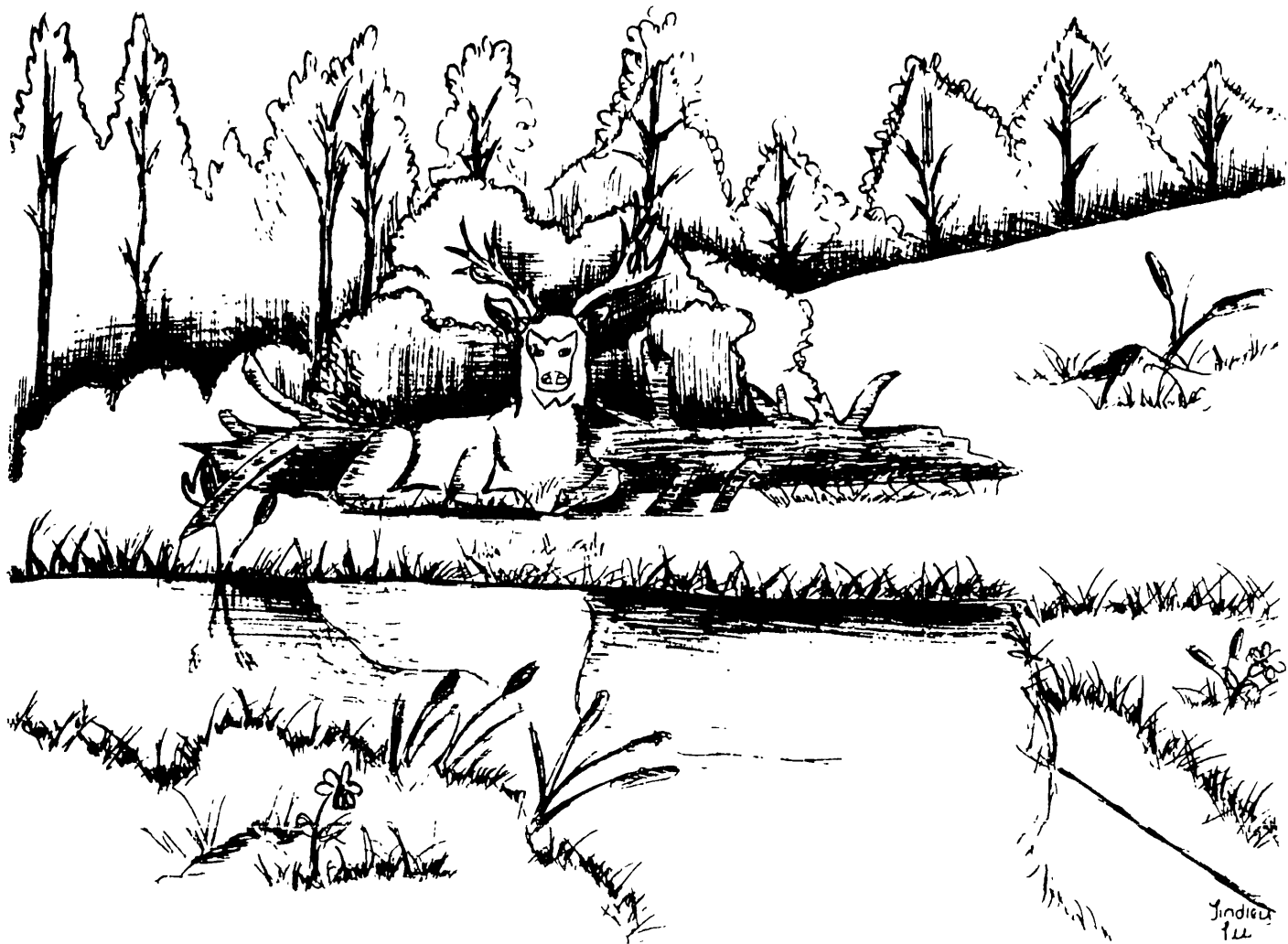




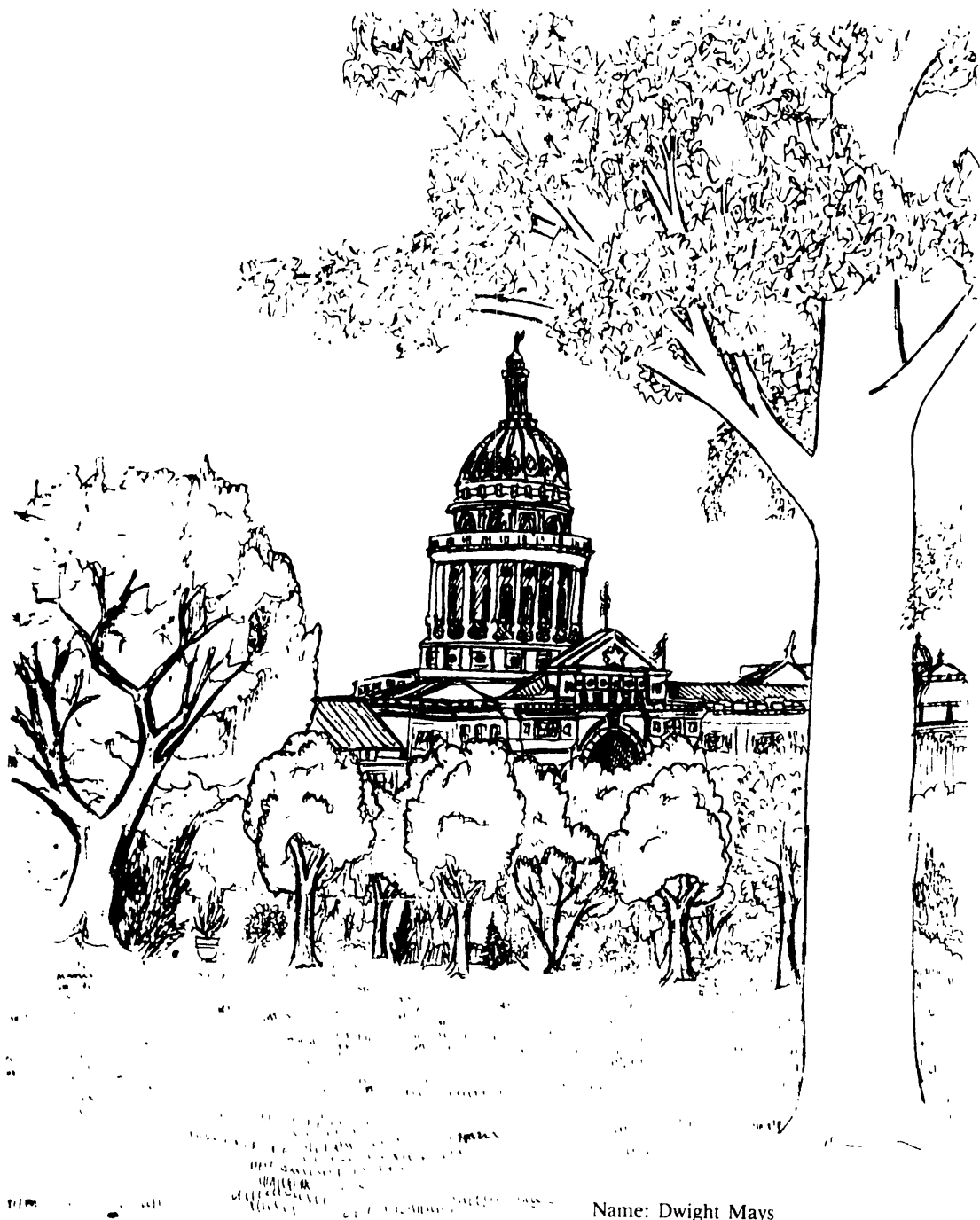
Name: Bryan Mehring  
Grade: 8  
School: Marshall Jr. High School,  
Marshall



Name: Dwight Mays  
Grade: 8  
School: Marshall Jr. High School,  
Marshall



Name: Lindley Lee  
Grade: 8  
School: Marshall Jr. High School,  
Marshall



Name: Dwight Mays  
Grade: 8  
School: Marshall Jr. High School,  
Marshall

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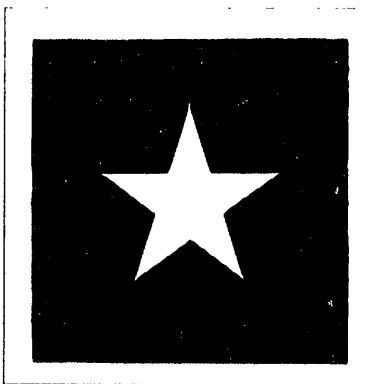
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