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5th Grade

Clover Elementary

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PROPOSED RULES

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

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 4. Cooperative Marketing Associations 4 TAC §§4.1-4.5

The Texas Department of Agriculture (the department) proposes new §§4.1-4.5, concerning cooperative marketing associations engaged in producing, marketing, and selling agricultural products. The new sections are being proposed in order to establish procedures for licensing of persons under Chapter 52 of the Texas Agriculture Code. Proposed §4.1 defines words used in these sections. Proposed §4.2 identifies the requirements for licensing. Proposed §4.3 sets fees for licenses. Proposed §4.4 establishes an expiration date, Proposed §4.5 provides for notice of dissolution..

Margaret Alvarez, coordinator for the cooperative marketing association law program, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections.

Ms. Alvarez also has determined that for each year of the first five years the proposed new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be improved, and clear procedures for licensing under Chapter 52 of the Code. There are no anticipated economic costs to small or large businesses required to comply with the new sections. All fees imposed under these sections will remain at current levels.

Comments on the proposal may be submitted to Margaret Alvarez, Coordinator, Cooperative Marketing Association Law program, Texas Department of Agriculture, P. O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the administration of the Texas Agriculture Code, and §52.151(c), which authorizes the department to establish an annual license fee for marketing associations organized under Chapter 52.

The Texas Agriculture Code, Chapter 52, is affected by the new sections.

§4.1. Definitions.

In addition to the definitions set out in the Texas Agriculture Code, Chapter 52, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

License - Permit authorizing an association or a group of five or more people to act as a Cooperative Marketing Association under the Texas Agriculture Code, Chapter 52 and this chapter.

§4.2. Who May Obtain A License.

(a) An association or a group of five or more persons who produce agricultural products may obtain a license to act as a Cooperative Marketing Association by first providing the department with:

- (1) a certified copy of their articles of incorporation;
- (2) an annual report as prescribed by the department; and
- (3) the payment of appropriate fee(s) as required by §4.3 of this title (relating to Fees).

(b) An unexpired license may be renewed when accompanied by the required annual report, and the appropriate license fee required by §4.3.

(c) If the license has expired for one year or longer, the person may not renew the license but must comply with the requirements and procedures for Texas non-profit corporations as defined in Texas Non-Profit Corporation Act, Chapter Nine, and reinstate with the Secretary of State's corporation division.

(d) Licenses expire on staggered dates based on the licensee's fiscal year end or until the association is dissolved or forfeited.

§4.3. *Fees.*

(a) The fee for filing Articles of Incorporation is \$10.

(b) The fee for filing an amendment to Articles of Incorporation is \$2.50.

(c) The annual license fee is \$10.

(d) Initial application fees shall be prorated based on the remaining months of the license year.

§4.4. *Notice of Dissolution.*

A licensee must notify the department, within ten days of the date of the following:

- (1) if the licensee merges with another cooperative;
- (2) becomes inactive; or
- (3) dissolves their Cooperative Marketing Association.

§4.5. *Expiration Provision.*

Unless specifically acted upon by amendment or repeal and substitution of a new section or sections in accordance with the Texas Government Code Annotated §§2001.021-2001.038 (Vernon 1996), or specific reactivation by the department, all of the section in this chapter shall expire on August 31, 2000.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707537

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 463-7583



Chapter 19. Quarantines

Subchapter K. European Corn Borer Quarantine

4 TAC §19.111, §19.113

The Texas Department of Agriculture (the department) proposes amendments to §19.111 and §19.113, concerning the European Corn Borer quarantine. The amendment to §19.111 is proposed to stop the artificial spread of the European Corn Borer and adds the counties of Bailey, Castro, Floyd, Hale, Lamb, Parmer, and Swisher to the list of quarantined areas. Observations during the 1996 growing season have shown these counties to be infested with the European corn borer. The amendment to §19.113 is proposed to provide an additional exception for quarantine certification to allow the movement of a quarantined article from a quarantined area into a European Corn Borer free area.

David Kostroun, deputy director for Agri-Systems, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Kostroun also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the proposed amendments will be to slow the introduction of European Corn Borers into areas of Texas that are currently not infested. The anticipated effect on small businesses and anticipated economic cost to persons required to comply with the amendments as proposed will be the payment of a \$25 inspection fee to the department for phytosanitary certification, and the cost to screen or fumigate commodities prior to shipping outside a quarantined area. This cost will depend on the method of treatment, either screening or fumigation, and the amount of commodity shipped, and is not determinable at this time.

Comments on the proposal may be submitted to David Kostroun, Deputy Director for Agri-Systems, P. O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §71.002, which provides the Texas Department of Agriculture with the authority to establish quarantines against diseases and pests found within the state; and §71.007, which authorizes the department to adopt rules necessary for the protection of agricultural and horticultural interests.

The Texas Agriculture Code, Chapter 71, is affected by the proposed amendments.

§19.111. *Quarantined Areas.*

(a) (No change.)

(b) The Texas counties of **Bailey**, Carson, **Castro**, Dallam, Deaf Smith, **Floyd**, Gray, **Hale**, Hansford, Hartley, Hutchinson, **Lamb**, Lipscomb, Moore, Ochiltree, Oldham, **Parmer**, Potter, Randall, Roberts, [and] Sherman, **and Swisher are also quarantined areas.**

§19.113. *Restrictions.*

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

(c) Exceptions.

(1) A quarantined article may be shipped into a free area in Texas if it is accompanied by a certificate issued by an authorized representative of the origin state's department of agriculture certifying that the article has met one of the following conditions:

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

(D) the quarantined article originated from an approved establishment in Texas which has a current compliance agreement with the department; **or**

(E) the greenhouse or the growing area where quarantined articles with divisions without stems of the previous year's growth, rooted cuttings, seedling plants or cut flowers were produced, were inspected and no European Corn Borer was found.

(2) (No change.)

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707538

Dolores Alvarado Hibbs
Deputy General Counsel
Texas Department of Agriculture

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For further information, please call: (512) 463-7583

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TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 186. Smart Jobs Fund Program

Subchapter A. General Provisions

10 TAC §§186.101, 186.103, 186.104, 186.106

The Texas Department of Commerce proposes amendments to §§186.101, 186.103, 186.104, and 186.106, implementing the Smart Jobs Fund Program authorized by the Texas Government Code, Chapter 481, Subchapter J, as amended. The rules are proposed under the Texas Government Code, Chapter 481, as amended, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended.

Section 186.101, concerning Authority, changes the name of the implementing state agency to the Texas Department of Economic Development due to statutory revisions approved by the 75th Legislature.

S.B. 932 abolishes the Texas Department of Commerce, creates the Texas Department of Economic Development, and transfers to the new agency, effective September 1, 1997, the administration of the Smart Jobs Fund Program.

Section 186.104, concerning Definitions, adds definitions for "consortium", "class-room training", and "on-the-job training" which were not previously defined. The new definitions are being added to clarify the meaning of the terms for the public. Section 186.104 also adds definitions for "local labor market" and "prevailing wage" since the amended Section 481.155(d) of the Smart Jobs Fund Program Act (the "Act") references these terms. Changes are being made to the definition for "contract" to clarify the different entities which can be a party to a Smart Jobs Fund grant contract. Changes are being made to "full-time employment" to delete the phrase "for a period of 25 consecutive weeks" because it is not needed in administering the program. Changes are being made to "minority employer status for application purposes" to delete reference to meeting the qualifications for certification as an historically underutilized business and to reflect the amended definition of "minority group member" contained in Section 35 of S.B. 932. Changes are being made to "department" and "governing board" to add statutory revisions made by the 75th Legislature. Section 186.104 also deletes definitions for "emerging occupation", and "manufacturing occupation" since those terms are now defined in Section 35 of S.B. 932. Finally, the definition for "smart job" is being deleted, because it is not needed in administering the program.

Section 186.106, concerning Modifications, is being amended to be applicable only to micro-businesses with twenty employees or fewer due to amendments to Section 481.155 of the Act set forth in Section 37 of S.B. 932.

Dan McNeil, Director of the Smart Jobs Fund, has determined that for the first five-year period the rules are in effect the fiscal implications as a result of enforcing or administering the rules are reduced costs for micro-business employers receiving grants that receive a wage modification from the executive director pursuant to Section 481.155(d) of the Act. The actual reduction in wage costs to a micro-business employer receiving a grant cannot be quantified because we do not know how much of a decrease will be justified by the employer.

The statutory amendment to Section 481.155 of the Act which necessitates the amendment of Section 186.106 may cause certain small businesses with greater than twenty employees and certain employers seeking training funds for manufacturing and emerging occupations training to have to increase wages more than they would have if they received a wage modification from the department under the existing rule. The actual wage increase, if any, can not be quantified because the department can not determine how many eligible employers would have asked for, and received, wage modifications from the department.

There are no anticipated cost increases or decreases to state or local government as a result of enforcing or administering the rules. The rules are not anticipated to create either a loss or an increase in revenue to state or local government. No costs will be incurred by any member of the public other than those applying for grants who may have minimal costs in submitting an application. Costs to employers receiving grants will be significantly offset by the grant training dollars received.

Mr. McNeil also has determined that there will be a public benefit for each of the first five years that the rules are in effect. The anticipated public benefit is that rules are being made clearer and simpler and that more micro-businesses may be able to access the program and may receive a cost benefit because of the wage modification for existing jobs specified in Section 186.106. The cost to small businesses of complying with the amended rules will be no different than the costs incurred by other employers.

Written comments on the proposed rules should be submitted to Renee Mauzy, General Counsel, Texas Department of Commerce, 1700 Congress Avenue, Suite Number 136, Box 12728, Austin, Texas 78711-2728 within 30 days of publication of the proposed rules. Comments may be faxed to Ms. Mauzy at (512) 936-0415. Comments received more than thirty days after publication of the rules will not be considered by Commerce.

The amendments are proposed under the authority of the Texas Government Code, Subchapter J, Section 481.153 and Section 481.0044(a), which require the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended, which prescribes the standards for agency rulemaking.

Texas Government Code, Chapter 481, Subchapter J is affected by this proposal.

§186.101. *Authority.*

Pursuant to the authority granted by the Texas Government Code, Subchapter J, Section 481.151 et seq, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, the Texas Department of **Economic Development** [Commerce] prescribes the following rules implementing the Smart Jobs Fund.

§186.103. *Governing [Policy] Board Monitoring.*

The **Governing** [Policy] Board shall monitor the goals and results of the program on a quarterly basis.

§186.104. *Definitions.*

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

Classroom training –training provided by an instructor to a group of trainees on a predetermined structured curriculum.

Consortium –A group that undertakes a training project in which all or most of training will be the same for each employer. A lead entity will normally assume responsibility for preparing and submitting the grant application and for being the grant administrator. The lead entity may be one of the employers, a provider or other entity acceptable to the department.

Contract–The written legally binding obligation between the department, [and] each employer, **providers, guarantors, and administrative entities which may serve as a fiscal agent.**[that receives a grant.]

Department–The Texas Department of **Economic Development.** [Commerce.]

[Emerging occupation–An occupation that arises through forces related to technological changes in the workplace, and that requires at least two months of customized education or training before a person trained in another field can be reasonably expected to perform the duties of the occupation.] **Governing** [Policy] Board–The existing board of the Texas Department of **Economic Development.** [Commerce.]

Governing [Policy] Board–The existing board of the Texas Department of **Economic Development.** [Commerce.]

Local labor market –One of many geographic areas of the State for which standardized occupational wage data is available from the Texas Workforce Commission.

[Manufacturing occupation–An occupation in an industry that is involved in the manufacture of products using mechanical power and machinery.]

Minority employer status for application purposes–[Meeting the qualifications for certification as an historically underutilized business.] **Minority group members include African-Americans, American Indians, Asian-Americans, Mexican-Americans and other Americans of Hispanic origin, and women.**

On-the-job training –Structured training by instruction and supervision during a period of time trainee works on the job.

Prevailing wage –The average hourly wage paid for a specific occupation within a local labor market area and is based on

the most current information provided by the Texas Workforce Commission.

[Smart Job–A job that is a family wage job and requires, as a condition of employment, high-level thinking, reasoning, and technical skills.]

§186.106. *Modifications.*

For purposes of modifying the requirements of §481.155 **(d) and related to micro-businesses only**, the executive director may [give priority to employers that are securing training for existing jobs if they are a small business or are securing training for manufacturing or emerging occupations. Such] **approve** a modification **which** would reduce the wage increase called for in 481.155**(d)** [(c)] over the wage in effect on the day before the date on which the project is scheduled to begin for that job. To qualify for this modification, the employer must specify the wage increase modification that it is requesting the executive director to make, including a justification for the requested wage increase modification. In addition the employer must certify

(1) that it is required to reduce or eliminate the employer's work force because of reductions in overall employment within an industry; or

(2) **that** a substantial change in the skills required to continue the employer's business **exists** because of technological changes; or

(3) **that** other **reasonable** factors **,as determined by the executive director, exist.** Grant amounts awarded for such modifications may not, in any fiscal year, exceed 10% of the total dollar amount of the grants awarded under the program in that **fiscal** year.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707572

W. Lane Lanford

Chief Administrative Officer

Texas Department of Commerce

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 936-0178



Subchapter B. Methodologies for Determining Certain Variables

10 TAC §§186.201-186.203

The Texas Department of Commerce proposes amendments to §§186.201-186.203, implementing the Smart Jobs Fund Program authorized by the Texas Government Code Chapter 481, Subchapter J, as amended. The rules are proposed under the Texas Government Code, Chapter 481 as amended, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended.

Section 186.201, concerning State Average Weekly Wage; Regional Variances, is being amended to delete the reference to state average weekly wage and to replace it with a reference

to prevailing occupational wage due to statutory revisions made by the 75th Legislature in S.B. 932.

Section 186.202, concerning Full-Time Employment, is being amended to delete any reference to waiving this section due to the definition of job in Section 481.151(10) which defines a job as employment on a basis customarily considered full-time for the applicable occupation and industry.

Section 186.203, concerning Maintenance of Effort, is being changed to correct Section 186.203(b)(2) such that it applies to employers with twenty employees or less, rather than less than twenty employees.

Dan McNeil, Director of the Smart Jobs Fund, has determined that for the first five-year period the rules are in effect the fiscal implications as a result of enforcing or administering the rules are generally reduced costs for employers due to the wage requirement being changed by the 75th Legislature and requiring a local labor market prevailing occupational wage instead of being required to use a regionalized manufacturing wage for all jobs. The actual reduction in wage costs to an employer receiving a grant cannot be quantified because we do not know the occupations and therefore the corresponding prevailing occupational wage in the local labor market until a grant application is submitted by an employer. There are no anticipated cost increases or decreases to state or local government as a result of enforcing or administering the rules. The rules are not anticipated to create either a loss or an increase in revenue to state or local government. No costs will be incurred by any member of the public.

Mr. McNeil also has determined that there will be a public benefit for each of the first five years that the rules are in effect. The anticipated public benefit is that rules are being made clearer and simpler and that more employers may be able to access the program and to receive a cost benefit because of generally lower wage requirements. The cost to small businesses of complying with the amended rules will be no different than the costs incurred by other employers.

Written comments on the proposed rules should be submitted to Renee Mauzy, General Counsel, Texas Department of Commerce, 1700 Congress Avenue, Suite Number 136, Box 12728, Austin, Texas 78711-2728 within 30 days of publication of the proposed rules. Comments may be faxed to Ms. Mauzy at (512) 936-0415. Comments received more than thirty days after publication of the rules will not be considered by Commerce.

The amendments are proposed under the authority of the Texas Government Code, Subchapter J, §481.153 and §481.044(a), which requires the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended, which prescribes the standards for agency rulemaking.

Texas Government Code, Chapter 481, Subchapter J is affected by this proposal.

§186.201. Prevailing Occupational Wage. [State Average Weekly Wage; Regional Variances.]

The department shall annually contact the Texas Workforce Commission to determine the average hourly wage paid for a specific occupation within a labor market area.

[(a) Between September 1 and October 1 of each year, the department shall contact the Texas Workforce Commission to determine the state average weekly wage as of September 1 of that year. This information will be published as part of the application packet.]

[(b) The department shall determine the regional variances of the state average weekly wage. The executive director may adjust the variance on a showing of good cause in accordance with the purposes of the program. In doing so, the executive director may use information compiled by the United States Department of Labor, the Texas Workforce Commission, the State Occupational Information Coordinating Committee, the department, and any other credible source acceptable to the executive director.]

§186.202. Full-Time Employment.

Except as provided by this section, the department may not award a grant to a project that does not train employees for full-time employment. [The executive director may waive the requirements of this section on a showing of good cause as it relates to the purposes of the program.]

§186.203. Maintenance Of Effort.

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

(c) The department may modify the requirements of this section if the executive director finds that:

(1) (No change.)

(2) the employer employs [fewer than] 20 employees **or less** and has not established a training program for non-managerial employees; or

(3) (No change.)

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707573

W. Lane Lanford

Chief Administrative Officer

Texas Department of Commerce

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 936-0178



Subchapter C. Application for Grants

10 TAC §§186.301-186.303, 186.306-186.308

The Texas Department of Commerce proposes amendments to §§186.301-186.303 and 186.306-86.308, implementing the Smart Jobs Fund Program authorized by the Texas Government Code, Chapter 481, Subchapter J, as amended. The rules are proposed under the Texas Government Code, Chapter 481, as amended, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended.

Section 186.301, Concerning Eligibility, is being amended to delete the maximum cost per job for a large business based on statutory changes made by the 75th Legislature in S.B. 932. This section is also being amended to clarify that the cost per job is derived from the total project cost instead of the total Smart Jobs Fund grant amount. This section is also being amended to establish a maximum grant amount in any fiscal year per single employer based on statutory changes made by the 75th Legislature in S.B. 932. The statutory changes also provide that the maximum grant amount may be exceeded if any one of six conditions is met pursuant to Section 481.155(a) of the Smart Jobs Fund Program Act (the "Act").

Section 186.302, concerning Application Requirements, is being amended to delete Sections 186.302(a)(1-3) based on new definitions added to Section 481.151 of the Act by S.B. 932. This section is also being amended to delete job descriptions and for existing jobs, the wage on the date a training project will begin because neither is needed to approve a grant award. This section also adds the requirement that a grant applicant shall indicate if it is a small or micro-business so that the department can determine if any exceptions will apply such as wage modifications and greater attrition, and deletes women as a separate category because based on statutory changes made to the definition of minority group member in Section 481.151 of the Act by Section 35 of S.B. 932 such that women are now included in the definition of minority group member. This section also deletes recruiting and curriculum design costs as reimbursable costs on the basis that these costs are not directly related training costs as compared to tuition, instructor wages, classroom books and materials and such costs. This section has been amended to provide that the Smart Jobs Fund will reimburse small and micro-businesses nominal and reasonable costs incurred in having a third party prepare the Smart Jobs Fund grant application. The provision is intended to permit more small and micro-businesses to access the program. This section is being amended to place a grant application on inactive status if requested information is not received by the Smart Jobs Fund within 30 business days. This change is necessary to decrease the time involved in processing grant applications and to reduce the overall processing time involved in awarding a grant to the applicant.

Section 186.303, concerning Technical Assistance, is being amended to add local workforce development boards as sources of technical assistance based on Section 2308.303(9) of the Labor Code.

Section 186.306, concerning Funding Priorities, is being amended to delete the mandatory targets for small and micro-businesses and to conform to amendments to the Act made by S.B. 932. An amendment is also being proposed to reflect the Legislature's stated intent, as set out in Section 37 of S.B. 932, that the department spend money from the Smart Jobs Fund in all areas of the state.

Section 186.307, concerning Provider Eligibility, is being amended to delete the requirement that a provider must demonstrate to the department that it has been in business for at least one year. This should provide greater flexibility to employers making decisions about who will be providing training.

Section 186.308, concerning Contracts and Contract Amendments, is being amended to clarify the contract performance expected from the employer in order to receive maximum reimbursement under a training grant. The amendment also clarifies that the maximum amount which an employer will receive is the amount of allowable expenditures which may be less than the original grant award. This section is being amended to permit the executive director to approve a higher attrition rate for micro-businesses using one of the same conditions for wage modification pursuant to Section 186.106 due to statutory changes made to Section 481.155(e) of the Act by Section 37 of S.B. 932. This should provide more micro-businesses an opportunity to access the Smart Jobs Fund.

Dan McNeil, Director of the Smart Jobs Fund, has determined that for the first five-year period the rules are in effect the fiscal implications as a result of enforcing or administering the rules are generally reduced costs for all business sizes due to less information being required to apply for a grant and additionally, for micro-business employers, greater attrition being allowed and reimbursement for nominal and reasonable application preparation fees. The actual reduction in costs to an employer receiving a grant cannot be quantified in advance. There are no anticipated cost increases or decreases to state or local government as a result of enforcing or administering the rules. The rules are not anticipated to create either a loss or an increase in revenue to state or local government. No costs will be incurred by any member of the public other than those applying for grants who may have minimal costs in submitting an application. Costs to employers receiving grants will be significantly offset by the grant training dollars received.

Mr. McNeil also has determined that there will be a public benefit for each of the first five years that the rules are in effect. The anticipated public benefit is that rules are being made clearer and simpler and that more small and micro-business employers may be able to access the program and to receive a cost benefit because of generally less application information being required, reimbursement for application preparation fees and the allowance of higher attrition than for large businesses. The cost to small businesses of complying with the amended rules will be no different than the costs incurred by other employers.

Written comments on the proposed rules should be submitted to Renee Mauzy, General Counsel, Texas Department of Commerce, 1700 Congress Avenue, Suite Number 136, Box 12728, Austin, Texas 78711-2728 within 30 days of publication of the proposed rules. Comments may be faxed to Ms. Mauzy at (512) 936-0415. Comments received more than thirty days after publication of the rules will not be considered by Commerce.

The amendments are proposed under the authority of the Texas Government Code, Subchapter J, Section 481.153 and Section 481.0044(a), which require the Texas Department of Commerce Policy Board to adopt rules to implement the Smart Jobs Fund Program, and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended, which prescribes the standards for agency rulemaking.

Texas Government Code, Chapter 481, Subchapter J is affected by this proposal.

§186.301 Eligibility

(a) (No change.)

(b) [The cost per job may not exceed an average of \$2,500 for any business with 100 or more employees and more than \$1 million in annual gross receipts.] The cost per job is calculated by dividing the total **project cost** [Smart Jobs Fund grant amount] by the number of jobs. **Unless one of the conditions set forth in Section 481.155(a)(1-6) is met, grants awarded by the department shall meet the following two tests: the combination of grants in any fiscal year to a single employer may not exceed \$1,500,000, and no grant or combination of grants in any fiscal year to a single employer may exceed 10% of the median annual wages of the new or existing jobs being created or retained with the grant.** [No grant may be awarded for more than 5% of the total funds appropriated for the biennium.]

§186.302. Application Requirements.

(a) One or more employers; one or more employers acting in partnership with an employer organization, labor organization, or community-based organization; or one or more employers acting in partnership with a consortium composed of one or more providers may submit an application for a grant under the Smart Jobs Fund:

[(1) to secure training for demand occupations in a particular industry; or]

[(2) to secure training for occupations, especially emerging occupations, within an industry that promotes jobs in high technology areas where technological changes or other factors contribute to substantial changes in the skills required to continue the employer's business; or]

[(3) to secure training for occupations in an industry, especially in manufacturing, where the employer is required to reduce or eliminate its work force because of reductions in overall employment within that industry, in cases where the Smart Jobs Fund project would directly contribute to the retention of those positions for which training was provided.]

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

(d) Business and Training Plan. Grant funds awarded hereunder shall pay for job-related occupational skills training and job-related basic skills training that enhance the employer's ability to carry out its business plan. Job-related basic skills must be integrated as part of the job-related occupational skills training curricula. An approved business and training plan will become part of any contract for grant funds awarded. The business and training plan will specify project start dates and project end dates. Up to four project periods may be specified by the employer. Each business and training plan must contain the information required by the Smart Jobs Fund, Section 481.156(b). Each business and training plan shall also:

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

(6) specify the geographic location, number and kind of jobs [with job descriptions] that will be available at the end of the project and the wages to be paid on completion of the project. [For existing jobs, also state the wage on the date the project is scheduled to begin;]and

(7) (No change.)

(e) The application shall include the following information:

(1) whether the employer is a small business **with less than 100 employees or \$1 million or less in annual gross receipts or a micro-business with 20 employees or less** [as defined by the Texas Government Code, 481.101(3)];and

(2) whether the employer is a [woman or] minority group member, and if so, to which minority group the employer belongs.

(f) Budget. Each application shall include a budget with line item breakdown of costs consistent with the requirements of the Smart Jobs Fund and these rules. The budget shall include three parts:

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

(3) specification of matching contributions. An approved budget with line item breakdown of costs will become part of any contract for grant funds awarded hereunder.

(A) Costs related to direct training may include: tuition; fees; books and classroom materials; instructor wages and salaries and reasonable benefits if the instructor is not an employee of a public education institution if grant funds are paying tuition and fees; instructor and trainee travel and per diem outside the employer's specified region of the state (limited to 10% of the total costs related to direct training) with per diem expenses not to exceed the State of Texas allowable rates; reasonable equipment lease or rental costs during the term of the project; reasonable costs of pre- and post-training participant assessment[, including recruiting and identifying trainees]; costs of purchasing approved curricula specified in the applicant's business and training plan if there is not already a course offering at a convenient public education institution for which the grant is paying tuition and fees; [costs of curriculum design;] wages, salaries, and reasonable benefits of instructional aides and trainees' counselors if such personnel are not employees of a public education institution if grant funds are paying tuition and fees; and other such reasonable costs related to direct training.

(B)-(D) (No change.)

(E) The Smart Jobs Fund **may reimburse nominal and reasonable** [shall not pay for the] costs of preparing an application **for small and micro-businesses and** [nor] shall **not** [it] reimburse an applicant or any employer for retroactive training costs incurred prior to the start date of the contract.

(g) Application process and time line.

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

(3) Within ten business days after receiving an application, the **department** [Department] shall notify the applicant whether the application is complete. If the application is incomplete, the **department** [Department] shall specify in a letter the additional information required to complete the application. With this notification to the applicant, the Department shall identify a contact person on its staff who is available to assist the applicant in completing the application. **The application will be placed in an inactive status if the requested additional information is not received within 30 business days from date of notification letter.**

(4) (No change.)

§186.303. Technical Assistance.

The department may provide technical assistance to applicants in formulating the required business and training plan. Such assistance may include direct assistance by department staff or referral to local or regional sources of technical assistance such as local or regional

providers, Small Business Development Centers, Manufacturing Assistance Centers, **Local Workforce Development Boards**, local or regional economic development corporations, chambers of commerce, business and trade associations, or such other sources as the employer may decide to use. The department may suggest technical assistance or suggest referrals, but will provide technical assistance for the completion of the application only on the request of the applicant.

§186.306. *Funding Priorities.*

(a) Only program objectives and priorities outlined in the Smart Jobs Fund Act and General Provisions will be considered in evaluating applications for funding, including:

(1) (No change.)

(2) **Shall attempt to ensure that 50%** [Fifty percent] of the money spent under the program shall be used for projects that assist employers with fewer than 100 employees or less than \$1 million in annual gross receipts.

(3) **Shall attempt to ensure that 20%** [Twenty percent] of the money spent under the program [shall] be used for projects that assist minority employers.

(4) **Shall to the greatest extent practical spend money from the smart jobs fund in all areas of the state.**

(b) The department will develop a scoring mechanism **to be used for businesses with 100 or more employees and greater than \$1 million in annual gross receipts** that gives priority to funding applications based on the following criteria:

(1) business status, including [small and/or] minority businesses, existing businesses, and businesses located in an Enterprise Zone;

(2)-(4) (No change.)

§186.307. *Provider Eligibility.*

[Providers shall be required to demonstrate to the department with certification that they have been in business for at least one year.] An employer that has a contract under the Smart Jobs Fund can not receive Smart Jobs fund grant monies for services rendered to another Smart Jobs Fund contractor during the contract period.

§186.308. *Contracts And Contract Amendments.*

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

(c) If all trainees specified in each project have been retained in employment 90 days subsequent to that project end date **and have successfully achieved the skills and competencies, wage requirements, and other contractual obligations**, the amount of **allowable expenditures** [the grant award] withheld shall be remitted to the employer(s). Notwithstanding any other provision of these rules, an attrition rate of 15% is allowed based on the total number of jobs as outlined in the contract. The executive director may approve different numerical caps for **micro-businesses only**[small training programs in order to allow reasonable attrition] **based on one of the following requirements: The employer must certify**

(1) **that it is required to reduce or eliminate the employer's work force because of reductions in overall employment within an industry; or**

(2) **that a substantial change in the skills required to continue the employer's business exists because of technological changes; or**

(3) **that other reasonable factors, as determined by the executive director, exist.**

(4) Attrition is verified 90 days after the end of the contract or 90 days after the end of each project **period** as defined in the contract. For attrition beyond the level specified in the contract, **allowable expenditures** [the grant amount] will be reduced for each trainee who is not retained in employment at the end of the 90-day retention period by the amount of the **average per-trainee** training costs for a [that] trainee. If there is a negative balance, the employer is liable for the amount of the negative balance and shall remit that amount to the department not later than the 30th day after the date of correspondence on which the employer is notified of the negative balance by the department.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707574

W. Lane Lanford

Chief Administrative Officer

Texas Department of Commerce

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 936-0178

◆ ◆ ◆
TITLE 22. EXAMINING BOARDS

Part XVII. Texas State Board of Plumbing Examiners

Chapter 361. Administration

General Provisions

22 TAC §361.6

The Texas State Board of Plumbing Examiners, proposes an amendment to §361.6. This section specifies the fees charged by the Texas State Board of Plumbing Examiners for licensing, examinations, renewals and other fees for the Texas State Board of Plumbing Examiners. The amendment sets the inspector's fees to take the Medical Gas or Water Protection Specialist Endorsement examination, to become licensed or to renew a license.

Ernest Pereyra, Chief Fiscal Officer, Texas State Board of Plumbing Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Pereyra, also has determined that each year of the first five years the rule is in effect, the public benefit will be better trained inspectors through medical gas and/or water supply protection specialist endorsements. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the rule will be a \$25 fee for a Medical Gas Endorsement license or renewal, a \$25 fee for a Water Protection Specialist Endorsement license or renewal, and a \$50 fee for the Medical Gas or Water Protection Specialist

Endorsement examination. The Board will collect annually an additional \$7,500 in fees (revenue).

Comments may be submitted to Ernest Pereyra, Chief Fiscal Officer, Texas State Board of Plumbing Examiners, 929 East 41st Street, P.O. Box 4200, Austin 78765-4200.

The amendment is proposed under and affects Texas Revised Civil Statutes Annotated, Article 6243-101, §5(a) and §13 (Vernon 1996).

§361.6. *Fees.*

(a) The Board has established the following fees:

(1) Licenses:

(A) - (G) (No change.)

(H) Water supply protection specialist endorsement (Inspector)— \$25;

(I) Medical gas installation endorsement (Inspector)— \$25.

(2) Examinations:

(A) - (G) (No change.)

(H) Water supply protection specialist endorsement (Inspector)— \$50;

(I) Medical gas installation endorsement (Inspector)—\$50.

(3) Renewals:

(A) - (I) (No change.)

(J) Water supply protection specialist endorsement (Inspector)— \$25;

(K) Medical gas installation endorsement (Inspector)— \$25.

(4) (No change.)

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

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

Issued in Austin, Texas, on June 9, 1997.

TRD-9707520

Ernest Pereyra, CPA

Chief Fiscal Officer

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 458-2145



Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct Other Responsibilities and Practices

22 TAC §501.47

The Texas State Board of Public Accountancy proposes an amendment to §501.47 concerning Firm Names.

The proposed amendment to §501.47 would preclude the use of firm names which indicate a character or grade of service incapable of verification, include geographic names, include non-owner's names, imply special expertise and are misleading as to the number of CPAs in the firm.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be reduced chances of the public being misled or the public misinterpreting the implications of a CPA firm's name. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§501.47. *Firm Names.*

(a) No certificate or registration holder shall engage in the practice of public accountancy using a [professional or] firm name [or designation] that includes descriptive words relating to the quality of services offered or that is misleading about the legal form of the firm, or about the persons who are partners, officers, or shareholders of the firm, or about any other matter, provided, however, that names of one or more former partners or shareholders may be included in the name of a firm or its successor.

(b) A [professional or] firm name [or designation] will be considered to be misleading if:

(1) the name contains a misrepresentation of facts;

(2) **the name indicates character or grade of service which is not based upon verifiable facts;**

(3) [(2)] the name is likely to mislead or deceive because it fails to make full disclosure of relevant facts; **the following are examples, but are not inclusive:**

(A) **the name contains a geographic area; or**

(B) **the firm name includes a non-owner firm employee.**

(4)[(3)] the name is intended or likely to create or unjustified expectations of favorable results;

(5) **the name implies special expertise;**

[(4)] the name implies educational or professional attainment or licensing recognition of the firm and/or of its owners, partners, or shareholders which are not supported in fact;]

(6) [(5)] the name of the firm that is incorporated does not include the words "corporation," "incorporated," "professional corporation," or "company," or in each case, an abbreviation thereof, as a part of the firm name, and the words "professional corporation," or "PC" are not included with the firm name each time it is used;

(7) [(6)] the name includes the designation "and company," "company," "associates," "**group**" or "and associates" or abbreviations thereof **or similar names implying more than one employed member of the firm** unless there are at least two licensees involved **full time** in the practice;

(8) [(7)] the name of a firm that is a partnership or professional corporation fails to contain the personal name or names of one or more individuals presently or previously a partner, officer, or shareholder thereof;

(9) [(8)] the name of a firm that is a sole proprietorship fails to contain the name of the sole proprietor; or

(10) [(9)] the name contains other representations or implications that in reasonable probability will cause a person of ordinary prudence to misunderstand or be deceived.

(c)-(d) (No change.)

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707478

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 505-5566



Chapter 511. Certification as CPA

Educational Requirements

22 TAC §511.57

The Texas State Board of Public Accountancy proposes an amendment to §511.57, concerning Definition of Accounting Courses.

The proposed amendment to §511.57 allows the Board to recognize accounting courses which are accepted by educational institutions toward a baccalaureate degree or its equivalent.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be an easing of the restrictions on accounting courses which are acceptable to the Board. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.57. *Definition of Accounting Courses.*

The board will accept not fewer than 30 passing semester hours of accounting courses (without repeat), taken at a recognized educational institution shown on official transcripts, **or accepted by a recognized educational institution for purposes of obtaining a baccalaureate degree or its equivalent**, of which 20 semester hours must be in core accounting courses, in the following subject areas:

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

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707480

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 505-5566



22 TAC §511.58

The Texas State Board of Public Accountancy proposes an amendment to §511.58, concerning Definitions of Related Business Subjects.

The proposed amendment to §511.58 limits to 20 hours the number of hours of related business subjects the board will accept but expands the definition to also include those courses the institution would accept.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be a pool of applicants who completed courses the board considers necessary for a well-rounded CPA education. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be

necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.58. Definitions of Related Business Subjects.

(a) The board will accept **not fewer than 20 passing semester hours** as related business subjects [all passing semester hours] (without repeat), taken at a recognized educational institution shown on official transcripts **or accepted by a recognized educational institution for purposes of obtaining a baccalaureate degree or its equivalent**, in the following areas:

(1)-(12) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707482

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 505-5566



CPA Examination

22 TAC §511.60

The Texas State Board of Public Accountancy proposes an amendment to §511.60, concerning Examination Authorization.

The proposed amendment to §511.60 changes the name of the examination to agree with the actual name of the current examination.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be referring to the correct name of the examination. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.60. Examination Authorization.

This board recognizes the **International** [Canadian Chartered Accountant] Uniform CPA Qualification Examination (**IQEX**) [(CAQEX)], written and graded by the American Institute of Certified Public Accountants, as a measure of professional competency necessary to obtain a CPA certificate by reciprocity under treaties entered into by the government of the United States.

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707481

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 505-5566



22 TAC §511.73

The Texas State Board of Public Accountancy proposes an amendment to §511.73, concerning IQEX Uniform Examination.

The proposed amendment to §511.73 changes the name of the examination to agree with the actual name of the current examination.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be referring to the correct name of the examination. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.73. IQEX [CAQEX] Uniform Examination - Subjects.

The board shall utilize the **International** [Canadian Chartered Accountant] Uniform CPA Qualification Examination **IQEX** [(CAQEX)] available from the American Institute of Certified Public Accountants covering the following subjects:

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

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707484
William Treacy
Executive Director
Texas State Board of Public Accountancy
Earliest possible date of adoption: July 21, 1997
For further information, please call: (512) 505-5566



Certification

22 TAC §511.173

The Texas State Board of Public Accountancy proposes a new §511.173, concerning Filing Complaints.

Proposed new §511.173 allows the board to receive complaints, or initiate investigations and to conduct hearings regarding eligibility of a candidate for a certificate based upon certain occurrences including the four listed ones.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be that the board will be able to perform investigations and conduct hearings regarding the eligibility of a candidate for a certificate. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.173. *Filing Complaints.*

The board may, on its own motion, or on the complaint of any person, initiate proceedings to determine the eligibility of any candidate for the issuance of a certificate. Chapter 519 of this title (relating to Practice and Procedure) provides for the notice and hearing. Sufficient cause for this action includes, but is not limited to, any of the following instances:

- (1) fraud or deceit by a candidate on the certification application;
- (2) final conviction of a felony or of any crime, where an element is dishonesty or fraud, under the laws of any state or of the United States, or the imposition of deferred adjudication in connection with the criminal prosecution of such an offense; or
- (3) conduct indicating a lack of fitness to serve the public as a professional accountant.

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

Issued in Austin, Texas, on May 29, 1997.

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22 TAC §511.174

The Texas State Board of Public Accountancy proposes new §511.174, concerning Action Relating to Moral Character.

Proposed new §511.174 lists the possible resolutions of an eligibility hearing and also describes the post-hearing procedure.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be increased ability to screen and exclude ineligible CPA applicants. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.174. *Action Relating to Moral Character.*

(a) The board, having conducted a hearing under this title, may reach the following conclusions:

- (1) deny the candidate the opportunity for issuance of a certificate;
- (2) prohibit the candidate from certification for a period not to exceed five years;
- (3) issue the candidate a certificate with conditions and requirements established by the board; or
- (4) close the case without adverse action against the candidate.

(b) The board shall refund the fee submitted by the candidate for certification if the candidate is denied the issuance of a certificate.

(c) The candidate may petition the board in writing for a reversal of the board's findings. After notice and hearing the board may:

- (1) approve an application for certification that was previously denied;
- (2) uphold its prior findings;
- (3) overturn its prior findings; or
- (4) modify its prior findings.

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707487

William Treacy

Executive Director

Texas State Board of Public Accountancy

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For further information, please call: (512) 505-5566



22 TAC §511.175

The Texas State Board of Public Accountancy proposes new §511.175, concerning Confidentiality.

Proposed new §511.175 extends the Board's statutory investigative file confidentiality to eligibility investigations.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be extending the confidentiality coverage to this new investigative area. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.175. *Confidentiality.*

Any file maintained, including information gathered or received from a third party, by the board concerning a candidate for certification shall be available for inspection by the person during normal business hours at the board office in Austin.

(1) A candidate may authorize in writing that the board make this same information available to a designated person or the general public.

(2) The name and mailing address of a candidate is public information and therefore available upon request.

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707488

William Treacy

Executive Director

Texas State Board of Public Accountancy

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For further information, please call: (512) 505-5566



22 TAC §511.176

The Texas State Board of Public Accountancy proposes new §511.176, concerning Certification Hearings.

Proposed new §511.176 describes those activities which will make an applicant's moral character unacceptable to the Board.

William Treacy, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Treacy also has determined that during the first five-year period the rule is in effect the anticipated public benefit as a result of enforcing or administering the rule will be a clearer understanding of which activities will make an applicant's moral character unacceptable to the Board. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas, 78701-3900.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

The rule implements Texas Civil Statutes, Article 41a-1, §6.

§511.176. *Certification Hearings.*

Unless otherwise determined by the board, the following are reasons why a person is not authorized to be certified as a CPA.

(1) The board shall not issue a certificate to a person if the board finds the individual has been convicted of a felony offense which results in incarceration, probation, parole, mandatory supervision or deferred adjudication.

(2) The board shall not issue a certificate to a person if the board finds that the individual has been convicted of a felony or misdemeanor offense, or granted a deferred adjudication which directly relates to the practice of public accountancy.

(3) A person applying for the issuance of a certificate who can be identified in paragraphs (1) or (2) of this section has the right to a hearing before the board to present evidence relative to the conviction. As a part of the hearing, the board shall consider the following issues before reaching a verdict:

- (A) the nature and seriousness of the crime;

(B) the relationship of the crime to the board's statutory responsibility to ensure that a person, at some point in the future, professing to practice public accountancy, maintains high standards of competence and integrity in light of the reliance of the public, and the business community in particular, on the report or other services provided by accountants;

(C) the extent to which the person might have an opportunity to engage in future criminal activity of the same type as that in which the individual was previously involved;

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a certified public accountant, once the person passes the examination and is licensed by the board;

(E) the extent and nature of the individual's past criminal activity;

(F) the age of the individual at the time of the commission of the offense;

(G) the amount of time which has elapsed since the individual activity;

(H) the conduct and work activity of the individual prior to and following the criminal activity;

(I) evidence of the individual's rehabilitation or rehabilitative effort while incarcerated or following release;

(J) other evidence of the individual's present fitness, including letters or recommendation from prosecution, law enforcement, and correction officers who prosecuted, arrested, or had custodial responsibility for the individual, the sheriff and chief of police in the area where the individual resides, and any other persons in contact with the individual. It shall be the responsibility of the individual to the extent possible to secure and provide to the board the recommendation of the prosecution, law enforcement, and correctional authorities as required under this section. The individual shall also furnish proof to the board that he/she has maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he/she has been convicted.

(4) Because an accountant is often placed in a position of trust with respect to client funds, and the public in general, and the business community in particular, rely on the reports and other services of accountants, the board considers that the following crimes directly relate to the practice of public accountancy:

(A) any felony or misdemeanor of which fraud or deceit is an essential element;

(B) any felony or misdemeanor which results in the suspension or revocation of the right to practice before any state or federal agency for a cause which in the opinion of the board warrants its action; and

(C) any crime involving moral turpitude.

(5) The following procedures shall apply in the processing of the application for certification.

(A) The candidate shall respond, under penalty of perjury, to the question. "Have you ever been convicted of a felony or

a misdemeanor, placed on probation, or granted deferred adjudication in any state or by federal government?"

(B) The board shall obtain criminal history record information as stipulated in this chapter on any candidate about whom the executive director finds evidence to warrant a record search.

(C) The board shall review the application, statements made by the candidate relating to criminal activity, criminal history record information, and shall approve or disapprove the application as the evidence warrants. All applications disapproved under these conditions shall be scheduled for a hearing.

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

Issued in Austin, Texas, on May 29, 1997.

TRD-9707489

William Treacy

Executive Director

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 505-5566

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 33. Early and Periodic Screening, Diagnosis and Treatment

Subchapter J. Texas Health Steps Medical Case Management

25 TAC §§33.501-33.507

(Editor's note: Due to an error on the part of the Texas Register, this document was published in the June 13, 1997, issue of the Texas Register (22 TexReg 5755) Adopted section.)

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits proposed new §§33.501-33.507 concerning Title XIX Texas Health Steps (THSteps) medical case management services. These sections cover definitions; eligible recipients; THSteps medical case management services; service limitations; applicant and provider qualifications; application, review, and monitoring processes; and reimbursement methodology. Medical case management assists eligible Medicaid recipients in gaining access to medically necessary and appropriate medical, social, educational, and other services. Medical case management services are mandated by the federal Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program, and the new sections will bring the State of Texas into compliance with federal law. These sections are also proposed pursuant to the terms of the Consent Decree in *Frew et al vs. McKinney et al*.

Ray Krzesniak, Budget Director, Health Care Delivery Association, has determined that for the first five-year period the new sections are in effect, there will be fiscal implications for the state as a result of enforcing the new sections as proposed.

When fully implemented, these services are projected to increase total federal and State Medicaid expenditures by \$19.1 million annually. However, since this is a new service, there will be less funds expended during the upcoming biennium. The impact on state government is estimated to be \$3.5 million in SFY 1998, \$5.8 million in SFY 1999, and \$7.3 million for SFY 2000 through 2002. When THSteps medical case management is implemented, any additional increase in Early and Periodic Screening, Diagnosis, and Treatment—Comprehensive Care Program (EPSDT-CCP) expenditures for health and health related services incurred by state government is expected to be offset by a decrease in more costly EPSDT-CCP expenditures, such as emergency room visits and inpatient services. There will be no fiscal implications for local government as a result of enforcing or administering the new sections.

Mr. Krzesniak also has determined that for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of enforcing the new sections will be increased access by EPSDT-CCP eligible recipients to medically necessary health care and case management services. There will be no effect on small or large businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed. There will be no impact on local employment.

Comments on the proposal may be sent to Margaret Drummond-Borg, M.D., Health Care Delivery, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7111, ext. 3101. Comments will be accepted for 60 days following publication of this proposal in the *Texas Register*. In addition, public hearings will be held on the proposal on June 17, 1997, at 9:30 a.m., Room 1420, Brown-Heatly Building, 4900 North Lamar Boulevard, Austin, Texas, 78751, and on June 24, 1997, at 1:00 p.m., Room K-100, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756. A copy of this proposal also will be sent to each Texas Department of Human Services field office for public review and comment.

The new sections are proposed under the Human Resources Code §32.021, and Government Code, §531.021, which provide the Health and Human Services Commission with the authority to propose rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the EPSDT program, and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The new sections affect Chapter 33 of the Human Resources Code.

§33.501. *Definitions.*

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

Access—The ability of a Texas Health Steps (THSteps)-eligible recipient to obtain health and health-related services, as determined by factors such as the availability of THSteps services, their acceptability to the child and family, the location of health care facilities and other resources, transportation, hours of operation, and length of time to see the provider.

Applicant—An agency, organization, or individual who applies to the Texas Department of Health (department) to provide medically necessary THSteps medical case management services under this subchapter and who meets the requirement for providers as stated in §33.505 of this title (relating to Applicant and Provider Qualifications).

Application process—Completion of an application issued by the department to potential applicants for approval to deliver medically necessary THSteps medical case management services and the ensuing the department's review and disposition of the application.

Billable contact—A documented face-to-face, home visit or phone contact with an eligible recipient by a qualified case manager who provides an eligible case management service.

Case manager—A qualified provider of approved Medicaid case management services.

Children with Special Health Care Needs (CSHCN)—Children who:

(A) range in age from birth up to 21 years;

(B) have a health condition(s) that has a biologic, psychological, and/or cognitive basis that has lasted or is anticipated to last for at least a year;

(C) have a health condition(s) that results in limitation of function, activities, or social roles in comparison with healthy age peers in the general areas of physical, cognitive, emotional, or social growth and development; and

(D) need health and health-related services over and above the usual for the child's age.

Continuity of care—The degree to which the care of a child is provided by the same medical home or primary care provider, the system of care remains stable, and services are consistent and unduplicated.

Department—The Texas Department of Health. EPSDT - Early and Periodic Screening, Diagnosis and Treatment. See definition for Texas Health Steps (THSteps).

Health condition/health risk—Children who:

(A) range in age from birth up to 21 years;

(B) have or are at risk for a medical condition, illness, injury, or disability that results in limitation of function, activities or social roles in comparison with healthy age peers in the general areas of physical, cognitive, emotional, or social growth and development; and

(C) have a need for health and health-related services over and above the usual for the child's age.

Health and health-related services—Services which are provided to meet the comprehensive (preventive, primary, and specialty) health needs of the THSteps-eligible recipient, including but not limited to well child and dental check ups, immunizations, acute care visits, pediatric specialty consultations, physical therapy, occupational therapy, audiology, speech language therapy, psychological counseling, pharmaceuticals, medical supplies, durable medical equipment, nutritional supplements, prosthetics, eye glasses, and hearing aids.

Medical home—A physician, primary care provider, or clinic that is known to the THSteps-eligible recipient and family as the source for the child's preventive and primary care services; continuity of care; access to acute health needs 24 hours a day; and referral to

specialty care, other health and health-related services, and medical case management.

Medically complex-Children who:

- (A) range in age from birth up to 21 years;
- (B) have a serious, ongoing illness or condition(s) that has lasted or is anticipated to last at least a year;
- (C) require daily, ongoing medical treatments and monitoring by appropriately trained personnel which may include parents or other family members; and
- (D) require access to a complex array of health and health-related services.

Medically fragile-Children who:

- (A) range in age from birth up to 21 years;
- (B) have a serious, ongoing illness or condition(s) that has lasted or is anticipated to last at least a year or has required at least one month of hospitalization in the year;
- (C) require daily, ongoing medical treatments and monitoring by appropriately trained personnel which may include parents or other family members;
- (D) require the routine use of a medical technical device to compensate for the loss of a body function needed to participate in activities of daily living; and
- (E) lives with the ongoing threat to continued life.

Medically necessary-Services which are:

- (A) reasonably necessary to prevent illness(es) or medical condition(s), or to provide early screenings, interventions, care, and/or provide care or treatment for eligible recipients who have medical condition(s) that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a handicap, cause illness or infirmity, or endanger life;
- (B) provided at appropriate locations and at the appropriate levels of care for the treatment of the medical condition(s);
- (C) consistent with health care practice guidelines and standards endorsed by professionally recognized health care organizations or governmental agencies;
- (D) consistent with the diagnosis(es) of the condition(s); and
- (E) no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency.

Primary care provider (PCP)-A health care professional licensed in Texas who agrees with the child and family to provide the medical home. PCPS may include pediatricians, obstetricians, internists, family practice physicians, general practice physicians, certified nurse midwives, advanced nurse practitioners and physician's assistants practicing within the scope of their respective Texas licensure boards. A specialty physician may be a PCP if he/she agrees to provide all the benefits of a medical home.

State -The State of Texas.

THSteps-A federal program known as EPSDT which is required of states by Medicaid for children under 21 years who meet certain

economic criteria for eligibility. In Texas, EPSDT is called the Texas Health Steps Program.

THSteps administrative case management-The enhancement service which assists eligible recipients to gain access to medically necessary health and health-related services including informing and outreach functions.

(A) Informing is the effort to educate the eligible recipient and their families concerning the periodic health checkups needed by children at certain ages.

(B) Outreach is the effort to contact eligible recipient and their families about missed check ups, and to assist them in overcoming barriers to access (such as language, transportation, and/or unfamiliarity with qualified service providers).

THSteps medical case management-The federally allowable enhancement service which assists eligible recipients in gaining access to medically necessary and appropriate medical, social, educational, and other services.

§33.502. *Eligible Recipients.*

Children eligible for THSteps medical case management services under this subchapter must be:

- (1) from one year up to 21 years of age;
- (2) Medicaid eligible in Texas;
- (3) determined to have a health condition/health risk, to have special health care needs, to be medically complex, or to be medically fragile; and
- (4) referred by their PCPs, other health provider(s), appropriate local or state agency(ies), dentist(s), or by themselves or their families.

§33.503. *THSteps Medical Case Management Services.*

THSteps medical case management services are provided to assist eligible recipients, as defined in §33.501 of this title (relating to Definitions), in gaining access to medically necessary medical, social, educational and other services to reduce morbidity and mortality among children, to encourage the use of cost-effective health and health-related care, to make referrals to appropriate providers, and to discourage over utilization or duplication of services. THSteps medical case management, however, is not a "gatekeeper" function. The department shall include the following elements in developing policies and procedures to implement THSteps medical case management.

(1) Screening/intake. The screening/intake process includes recording demographic information about the eligible recipient, as well as documenting the child's health problem(s) and whether the child needs a medical home.

(2) Family assessment. A family assessment shall include an in-depth evaluation of all issues that impact the short and long term health and well being of the eligible recipient and his/her family.

(3) Identification of service needs. Providers of medical case management services shall assess the medically necessary medical, social, educational and other service needs of the eligible recipient.

(4) Written Service Plan (WSP) development. The WSP is based upon a determination of the medically necessary services to meet the identified service needs, and a description of the course(s) of

action to meet those needs. The WSP is the written summary which documents the services to be accessed, those who are responsible for contacting the appropriate service providers, and the time frame within which the eligible recipient should access services. In accordance with the limits of confidentiality, the WSP shall be sent to the medical home, as soon as one has been established, and to the appropriate referring and service providers.

(5) Service provision and coordination. Service provision and coordination is the implementation of the service plan, and the linkage between the eligible recipient, the family and the providers, including the appropriate use of available resources to meet the needs of the eligible recipient.

(6) Follow up. Providers of medical case management services shall ascertain, on an ongoing basis, what services specified in the WSP have been received by the eligible recipient, reassess the eligible recipient's needs, develop appropriate modifications of the WSP based upon medical evaluations and reassessments by other providers, and evaluate the satisfaction of the eligible recipient, family and medical home provider with the services provided.

§33.504. *Service Limitations.*

(a) THSteps medical case management services are not reimbursable if they are duplicative of other Medicaid case management services. Case management activities associated with the following are not reimbursable as THSteps medical case management:

(1) case management services provided to children participating in THSteps as part of an existing service by a provider such as a primary care or specialty physician, another professional or health-related provider, or a person referring the child to medical case management services;

(2) administrative case management services provided to THSteps eligible recipients by a state health and human service agency, the department, or the department's designee for activities necessary for the proper and efficient administration of the Medicaid program; and

(3) targeted case management services and/or case management services provided through a 1915(c) Waiver Program; i.e., case management services already existing as approved Medicaid services in Texas.

(b) THSteps Medical Case Management Services are reimbursable each year for one comprehensive service and up to five coordination/follow up services without prior authorization.

(c) Prior authorization for additional THSteps medical case management services must be requested by the eligible recipient's PCP or a physician who has agreed to provide THSteps medical check ups and signature authority for prescriptions of pharmaceuticals, durable medical equipment, and therapies until a PCP is secured. Requests must be properly documented and submitted to the department for review.

§33.505. *Applicant and Provider Qualifications.*

(a) In order to become a provider of medically necessary THSteps medical case management services, an applicant must be a health service provider of primary, preventive and/or tertiary health services or have written letters of agreement documenting referral relationships with providers of preventive, primary, and tertiary health and health-related services.

(b) An applicant that has met the requirements of subsection (a) of this section must:

(1) agree to comply with the department rules on medically necessary THSteps medical case management and the statutory provisions applicable to the provision of medically necessary THSteps medical case management;

(2) develop and maintain a THSteps medical case management program which assists eligible recipients to access medically necessary medical, social, educational, and other services and which incorporates the following elements:

(A) assurance that THSteps medical case management services will be provided in locations convenient for the eligible recipient;

(B) a comprehensive resource directory, updated at least annually, which contains the names, addresses, and telephone numbers of providers of health and health-related services including, but not limited to: physicians; other primary care providers; Early Childhood Intervention (ECI); Chronically Ill and Disabled Children's (CIDC) Program; Special Supplemental Nutrition Program for Women, Infants and Children (WIC); rehabilitation services; Medicaid Medical Transportation Program; the Texas Information and Referral Network; and locally active community services;

(C) written letters of agreement with other Medicaid case management providers/applicants for determining when other approved Medicaid case managers are providing case management for eligible recipients and can extend that role beyond a single case management program or service, as required by subsection (b)(5) of this section;

(D) a written procedure for triage and transfer of eligible recipients to other Medicaid case management providers within the same service area;

(E) an internal evaluation process that includes, but is not limited to, assessments of satisfaction of eligible recipients, PCPs and case managers;

(F) contacts with community social and education resources; and

(G) assistance for recipients in accessing THSteps administrative case management service providers for needs including:

(i) completing applications;

(ii) scheduling timely appointments;

(iii) arranging for transportation to health and health-related services; or

(iv) other activities required to effectively carry out the medically necessary THSteps medical case management written service plan.

(3) assure that THSteps medical case management services will be:

(A) initiated through an integrated communication with the eligible recipient's PCP and/or referral source as described in §33.502 of this title (relating to Eligible Recipients);

(B) committed to securing a PCP, in a timely manner, if one does not exist, who will provide a medical home for

each eligible recipient accessing THSteps medical case management services;

(C) planned, developed, and evaluated with the input of case manager(s) who meet the qualifications defined in this section; and

(D) provided by qualified case managers as defined in this section.

(4) assure that qualified case managers:

(A) have the opportunity to participate in appropriate Medicaid case management and THSteps workshops, seminars, and training;

(B) assume responsibility for all THSteps medical case management services provided to eligible recipients including services by their designated support staff;

(C) participate in relevant time/motion or cost studies;

(D) agree to permit the department or its designee to have access to the THSteps medical case management provider's records, and permit direct observation of case management activities for the purpose of determining the provider's suitability to continue participation as a THSteps medical case management provider; and

(E) participate in local and/or regional case management systems to assure cooperation and coordination with local health departments, the department's public health region, school districts and other Medicaid-approved case management providers as evidenced by:

(i) participation in community coalition meetings;

(ii) collaboration in planning case management and service delivery systems; and

(iii) involvement in resolving case management problems.

(5) maintain on file interagency letters of agreement which:

(A) define the scope of case management services of each entity;

(B) describe the population to be served; and

(C) demonstrate a reciprocal and cooperative relationship with other Medicaid-approved case management providers.

(6) share information, within the limits of confidentiality, with the department and collaborating agencies to facilitate referral and monitoring of eligible recipients;

(7) comply in a timely manner with all department application, data collection, and reporting requirements;

(8) meet applicable state and federal laws governing participation of providers in the Medicaid program;

(9) sign a Medicaid provider agreement and maintain provider status with the department which administers the federal Medical Assistance Program;

(10) submit reports regarding health and case management services as requested by the department; and

(11) maintain documentation that the THSteps medical case management providers meet the following requirements:

(A) have a minimum of one year of pediatric education and/or work experience in accordance with department policy; and

(B) have received education and training regarding THSteps medical case management activities; and

(C) be registered nurses (R.N. with B.S. or M.S. degree) or licensed social workers (with B.S.W. or M.S.W.) with a minimum of one year's medical experience in accordance with department policy, and have maintained their professional licenses as determined by their respective Texas licensure boards; and

(D) provide professional services in compliance with federal, state, and local laws.

§33.506. *Application, Review and Monitoring Processes.*

(a) Applications to become a THSteps medical case management provider may be obtained by contacting the department, Bureau of Children's Health, Health Care Delivery Associateship, 1100 West 49th Street, Austin, Texas, 78756-3199, (512) 458-7700.

(b) Applications must be typed and must be accompanied by all required supporting documentation set out in this subchapter. An original and one copy of the application must be submitted to the Bureau of Children's Health at the address described in subsection (a) of this section.

(c) Incomplete applications shall not be considered and shall be returned to the applicant.

(d) All complete applications shall be reviewed by the department staff. The review process shall be completed within 60 days following receipt of a completed application.

(e) Applicants meeting all provider requirements shall be approved by the department. Approved applicants will be notified in writing by the department, and the department shall initiate the enrollment process.

(f) Applicants who are not approved will be given written notification of the reasons for the department's decision.

(g) Approved applicants and providers will be monitored on an annual or as needed basis. Applicants and/or providers who do not comply with program requirements may be terminated, placed on probationary status, referred to appropriate professional licensure entities for review, and/or referred for fraud and abuse investigation as described in department policies and procedures.

§33.507. *Case Management Reimbursement Methodology.*

(a) The department will reimburse qualified providers for billable contacts with eligible recipients.

(b) Providers will be reimbursed based on rates set for other Medicaid case management services administered by the department.

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

Issued in Austin, Texas, on June 4, 1997.

TRD-9707219

Susan K. Steeg

General Counsel

Texas Department Health

Earliest possible date of adoption: July 4, 1997
For further information, please call: (512) 458-7236



Chapter 35. Pharmacy Services

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits proposed amendments to §§35.202, 35.203, 35.607, 35.701, and 35.707, concerning the submission of claims for compounded prescriptions to the Medicaid Vendor Drug Program. These amendments address new requirements for submitting claims for reimbursement of compounded prescriptions to the Vendor Drug Program's Electronic Claims Management System. These amendments also revise language pertaining to the use of the Metric Decimal Standard adopted by the National Council for Prescription Drug Programs (NCPDP).

The current system requires that the claims for the reimbursement of compounded prescriptions be submitted to the system using only the National Drug Code (NDC) and number of units of the most expensive ingredient in the compound. Additional ingredients in the compound must be billed to the department through the regional pharmacist, using a paper system.

Under the revised system, up to ten ingredients can be submitted to the department electronically. Additional ingredients will be submitted manually to the Vendor Drug Help Desk. Department staff have determined that the need for manual submissions under this system will be extremely limited.

Mr. Joe Moritz, Health Care Financing Budget Director, has determined that for the first five year period the sections are in effect, there will be no fiscal implications to state or local government as a result of implementing the sections as proposed.

Mr. Moritz has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of implementing the sections will be improved efficiency in the processing of Vendor Drug Claims for compounded prescriptions, including the ability for pharmacies to submit the majority of these prescriptions electronically, and the ability of the department to accurately identify the ingredients used in these compounds for Medicaid Pharmaceutical rebate billings. There will be no impact on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated impact on the local employment.

Comments on the proposal may be sent to Patricia Gladden, Director of Standards and Procedures, Bureau of Vendor Drug, 1100 West 49th Street, Austin, Texas 7856-3168, (512) 338-6978. Comments will be accepted for 30 days following the publication date of this proposal in the *Texas Register*.

Subchapter B. Administration

25 TAC §35.202, §35.203

These amendments are proposed under the Human Resources Code, §32.021 and Texas Government Code, Chapter 531, which provide the Health and Human Services Commission with the authority to adopt rules to administer the State's medical assistance program, and are submitted by the Texas

Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under the Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendments affect the Human Resources Code, Chapter 32.

§35.202. Pharmacy Services.

Under the Vendor Drug Program, pharmacy services include the dispensing to eligible recipients of covered legend and nonlegend drugs that appear in the latest revision of the Texas Drug Code Index and updates. [If at least one covered legend drug (in therapeutic amount) is included in the ingredients, the Vendor Drug Program covers compounded prescriptions.]

§35.203. Prescriber Identification Numbers.

[(a) The department assigns a unique number to each of the prescribers appearing most frequently on the claims of each vendor.]

[(b)] Vendors must enter the identification number of the prescriber, **as listed with the appropriate medical specialty board**, on each claim.

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

Issued in Austin, Texas, on June 11, 1997.

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Susan K. Steeg

General Counsel

Texas Department of Health

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



Subchapter F. Reimbursement

25 TAC §35.607

The amendment is proposed under the Human Resources Code, §32.021 and Texas Government Code, Chapter 531, which provides the Health and Human Services Commission with the authority to adopt rules to administer the State's medical assistance program, and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under the Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendment affects the Human Resources Code, Chapter 32 .

§35.607. Reimbursement for Compound Prescriptions.

Reimbursement for compounded prescriptions is based on estimated acquisition cost of the ingredients used, verifiable by invoice audit, plus the department's currently established dispensing fee per prescription or the usual and customary price charged to the general public, whichever is lower. **Only drugs listed in the latest revision of the Texas Drug Code Index are considered for reimbursement. There is no provision for a compounding fee over and above the dispensing fee.**

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

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Susan K. Steeg

General Counsel

Texas Department of Health

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



Subchapter G. Pharmacy Claims

25 TAC §35.701, §35.707

These amendments are proposed under the Human Resources Code, §32.021 and Texas Government Code, Chapter 531, which provide the Health and Human Services Commission with the authority to adopt rules to administer the State's medical assistance program, and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under the Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendment affects the Human Resources Code, Chapter 32.

§35.701. *Pharmacy Claims.*

(a) (No change.)

(b) Quantity of drugs, as prescribed by the physician, always must be entered in the metric **decimal** quantity field. The quantity shown as the metric **decimal** quantity unit must be calculated after referencing the pricing unit shown in the Texas Drug Code Index.

(c) - (d) (No change.)

§35.707. *Submission of Special Claims.*

Providers must bill for compounds using the drug code and **metric decimal** quantity for **each National Drug Code** [the most expensive legend drug] in the compound [and the compound flag]. **Providers may bill for up to ten ingredients through the on-line system. Payment requests for ingredients exceeding ten must be submitted to the Vendor Drug Program help desk.** [Payment requests for additional ingredients in the compound must be submitted to the regional pharmacist.]

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

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Susan K. Steeg

General Counsel

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



Chapter 97. Communicable Diseases

Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)

25 TAC §§97.140-97.143

The Texas Department of Health (department) proposes amendments to §§97.140-97.143, concerning sexually transmitted diseases (STD) including acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The amendments adopt the document titled "HIV Counseling Protocols," which will be used for counseling state employees exposed to the HIV virus infection on the job. The new document replaces the document titled "HIV Serologic Testing and Documentation Guidelines" which the Texas Board of Health (board) adopted in September 1992. The rules are also being updated to delete superfluous information and to reflect an updated address from which department information can be obtained regarding the "HIV Counseling Protocols;" the HIV counseling and testing course; the "Model Health Education Program/Resource Guide for HIV/AIDS Education of School-Age Children;" and the "Model HIV/AIDS Workplace Guidelines."

Doug Wilson, Chief of Staff Services, Associateship for Disease Control and Prevention, Texas Department of Health, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Wilson has also determined that for each year of the first five years that the sections will be in effect the public benefit anticipated as a result of enforcing the sections will be the continued provision of specific information relating to HIV and related matters to groups of individuals designated by the legislature: state employees, HIV counselors, school-age children, and employees who may encounter the disease in the workplace. There will be no cost to small businesses. There will be no additional cost to persons who may be required to comply with the sections as proposed. There is no anticipated impact on local employment.

Comments on the proposal may be submitted to Casey Blass, Director, HIV/STD Health Resources Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756, (512) 490-2515. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*.

The amendments to §97.140 and §97.141 are proposed under the Texas Health and Safety Code, §85.087, which requires that the department develop and offer a training course for persons providing HIV counseling, and charge a reasonable fee for the course; the amendment to §97.142 is proposed under the Texas Health and Safety Code, §85.004, which requires the department to develop a guide for a model program; the amendment to §97.143 is proposed under the Texas Health and Safety Code, §85.012, which requires the department to develop a model workplace guideline; Texas Health and Safety Code §85.016 which provides the Texas Board of Health (board) with authority to adopt rules necessary to implement

this section; and Texas Health and Safety Code §12.001 which provides the board with authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

The amendments affect the Health and Safety Code, Chapter 85.

§97.140. *Counseling and Testing for State Employees Exposed to Human Immunodeficiency Virus (HIV) Infection on the Job.*

- (a) (No change.)
- (b) Counseling and testing.

(1) The counseling **for state employees exposed to HIV on the job** [and testing] should be performed in accordance with the **"HIV Counseling Protocols" initially adopted in May 1996** ["HIV Serologic Testing and Documentation Guidelines,"] dated 1997 [September 1992]. Copies of the **"HIV Counseling Protocols"** [guidelines] are **maintained by and are** available for review in the **Bureau of HIV and STD Prevention** [HIV/STD Prevention Division], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies also are available on request.

(2)-(3) (No change.)

- (c) (No change.)

§97.141. *Fee to Cover the Cost of Providing the Human Immunodeficiency Virus (HIV) Counseling and Testing Course.*

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

[(1)] The training course shall include information relating to the special needs of persons with positive HIV test results, including the importance of early intervention and treatment and recognition of psychosocial needs.

[(2)] The course titled "HIV Serologic Test Counseling and Partner Notification Techniques" is three full days and shall provide participants with a notebook of guides and reference material.]

- (c) Fee.

(1) The fee will be \$150 for each participant whose affiliation is with **an** [a counseling and testing] entity that does not contract with the department.

(2) (No change.)

(d) Notice. Notice of the training courses will be announced through correspondence to contractors and other appropriate entities [from our regional coordinators (HIV trainers). The training course schedule and the contact person will also be published quarterly in the *Texas Register*]. **Detailed information about the course can be obtained from the Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.**

§97.142. *Model Health Education Program/Resource Guide for HIV/AIDS Education of School-Age Children.*

- (a) (No change.)
- (b) Copies of the guide are available for review and purchase from the **Bureau of HIV and STD Prevention** [HIV/STD Prevention Division], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Regional [HIV coordinators (TDH) and regional] education service centers have inspection copies available.

§97.143. *Model HIV/AIDS Workplace Guidelines.*

(a) The Texas Department of Health has prepared **and maintains** model workplace guidelines **consistent with current public health information and with state and federal laws and regulations** as required by the Texas Health and Safety Code, §85.012. [It is the department publication titled, "HIV/AIDS Model Workplace Guidelines" dated December, 1989. The guidelines consist of two parts, as follows:

[(1)] The first part consists of general workplace guidelines concerning persons with HIV infection and related conditions, including AIDS. All state agencies shall adopt and all private employers are encouraged to adopt HIV-related workplace guidelines that incorporate at a minimum the general workplace guidelines.

[(2)] The second part consists of more specific workplace guidelines which are an extension of the general workplace guidelines in paragraph (1) of this subsection. All state agencies and contractors with the state who provide direct client services and programs shall adopt and implement workplace guidelines similar to the specific workplace guidelines.]

(b) **The** [Copies of the] guidelines are available for review in the **Bureau of HIV and STD Prevention** [HIV/STD Prevention Division], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies [also] are available on request.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707594

Susan K. Steeg

General Counsel

Texas Department of Health

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XX. Texas Workforce Commission

Chapter 809. Child Care and Development

The Texas Workforce Commission (TWC) proposes the repeal of §§809.1-809.20, 809.22-809.39, 809.41-809.53, 809.55, 809.57-809.58, 809.60-809.65, 809.67-809.88, and new §§809.1-809.4, 809.21-809.33, 809.41-809.48, 809.61-809.78, 809.81-809.92, 809.101-809.111, 809.121-809.124, and 809.141-809.155, concerning Child Care and Development Preamble.

The repeal and new rules will include the permanent repeal of some sections; the renumbering of the remaining sections into new subchapters; technical changes to some sections; changes to other sections; and new sections not previously in existence. Note: Several of the proposed new rules contain only minor changes from the existing language. However, due to the renumbering of some of these rules, the Texas Register requires the TWC to repeal and replace as new these existing rules.

Specifically, the Texas Workforce Commission (Commission) proposes the following:

Rules to be Repealed: The repeal of §§809.1, 809.10, 809.57, 809.63, 809.64, 809.79, and 809.80 reflects a reduction in the number of eligibility rules and significant changes in the federal law, §418(a) of the Social Security Act, 42 USC 9858 (The Child Care and Development Block Grant Act of 1990), as amended, and proposed changes to 45 CFR Parts 98 and 99. The eligibility criteria for child care services funded by Child Care and Development Block Grant, Food Stamp Employment and Training and Title XX has been combined into one rule which deals with all child care funding sources, §809.13; the allowable services during interruptions to education or training activities has been combined with another section, §809.73, that addresses interruptions to employment activities; the determination of family members for child care services has been added to definitions, §809.2. The repeal of §809.1 concerns the documentation of client eligibility required by a contractor in order to receive payment for services. This requirement is covered in §§809.28, 809.84 and §809.111. The repeal of §809.10 concerns the requirements for insurance coverage for Child Care Management System (CCMS) contractors. The requirement for insurance will be added to the language of the CCMS contracts, eliminating the necessity of a rule.

Renumbering of the Remaining Rules. See Figure 1: 40 TAC §§809.1-809.155 Preamble.

New Subchapters—The new sections will regroup rules and incorporate new rules into the following subchapters: A. General Provisions, B. Contractor Requirements, C. Child Care Provider Requirements, D. Client Eligibility Requirements, E. Client Eligibility Process Requirements, F. Billing and Payment Requirements, G. Program Monitoring and Compliance Requirements, H. Corrective/Adverse Actions.

Rules Containing Technical Changes: The renumbered rule will incorporate proposed technical changes to §§809.22-809.31, 809.33, 809.43-809.47, 809.61-809.63, 809.66, 809.69-809.71, 809.81-809.83, 809.85-809.86, 809.88, 809.90-809.92, 809.101-809.109, 809.111, 809.121-809.124, 809.141-809.142, 809.144-809.147, 809.149-809.150, and 809.154. The technical changes include changing references from the Texas Department of Human Services (DHS) to the Commission; from Aid to Families with Dependent Children (AFDC) to Temporary Assistance to Needy Families (TANF); from JOBS funded child care to Temporary Assistance to Needy Families (TANF); Employment Services and from the JOBS program to the Commission's Employment Program for Temporary Assistance to Needy Families (TANF) Recipients. The change incorporated into new §809.109 uses less confusing language to discuss payments to parents who arrange child care outside of the CCMS system of vendors. The renumbering also incorporates cross-references to section numbers and section titles and the use of the term title in place of title where appropriate.

Rules Containing changes: The renumbered rules will incorporate proposed changes to §§809.21, 809.41, 809.42, 809.48, 809.64, 809.65, 809.67, 809.68, 809.72, 809.73, 809.74, 809.75, 809.76, 809.84, 809.87, 809.89, 809.110, 809.151, 809.152, and 809.155. These changes reflect changes in the

federal law (the "Personal Responsibility and Work Opportunity Act of 1996", P.L. 104-193) regarding funding sources, changes in eligibility criteria, and the consolidation of former eligibility rules into fewer sections (§809.65). The eligibility changes also include new income limits (§809.67); clarification of income inclusions (§809.68); eligibility of children in care when a local workforce development board assumes management responsibilities of child care services (§809.87); and time limits for education or training-related child care. The change to § 809.73 distinguishes between education and training time limits and allows clients the option of obtaining the limit for education hours over a longer period of time. Education entities allow individuals to enroll part time in pursuing an education. Training entities only offer full time programs. CCMS contractors are now able to find part time care. The changes to §809.72 concerns child care allowed during interruptions to employment, education, or training activities. The change reflects changes in federal law, the "Personal Responsibility and Work Opportunity Act of 1996." Section 809.89 puts current policy into the rule base concerning the assessment of parent fees for pre-kindergarten extended day child care programs. A change at §809.42 adds military-operated facilities as eligible providers of care and clarifies current policies about transportation insurance. A change at §809.48 emphasizes that the criteria used in the Designated Vendor Program are voluntary. Changes at §§809.41, 809.151 and §809.152 add other relatives now allowed by the federal government as care providers. A change at §809.75 adjusts the time limit for appealing decisions to reflect the new hearing rules proposed for TWC. The change at §809.76 notes changes in education that must be reported. A change at §809.106 allows TWC to adjust local market rates to reflect the actual cost of care in a geographic area in which a substantial number of child care providers charge a rate that is less than the actual cost of providing care. A change at §809.155 introduces new language concerning the hearing process at TWC.

New Rules: The renumbered rules will incorporate new subsections in §§809.1, 809.2, 809.3, 809.4, 809.32, 809.77, 809.78, 809.143, 809.148, and §809.153. New §809.2 incorporates TWC rule policies and defines terms used in the sections in Title 809. New §809.3 and §809.4 specify the role that Local Workforce Development Boards have in providing planning, oversight and evaluation of the child care program based on the child care recommendations approved by the Commissioners and the process Boards must use in establishing new child care eligibility criteria. New §809.32 addresses the child care training program and the Commission's commitment to incorporate in that program materials developed as part of the proposed career development system. New §809.77 establishes what is meant by "receipt" of a document. New §809.143 better enables TWC to prevent entities cited in serious non-compliance with other programs from doing business with TWC, TWC contractors or TWC subcontractors. New §809.148 defines those situations that warrant recovery of overpayment of funds. New §809.153 establishes the consequences to parents, caretakers, vendors and providers considered to have committed fraud as defined in current §809.151 and §809.152. New §809.78 requires that parents sign a parent responsibility agreement, if they have not signed one as a requirement to receive TANF benefits, as part of the child care enrollment process. This agreement references cooperation with child support en-

forcement, and consequences of parental substance or alcohol abuse and non-regular school attendance of the parents' children under 18 years of age. The TWC also seeks comments concerning appropriate sanctions for parents who do not comply with the parent responsibility agreement.

The TWC is also contemplating future changes to child care parent fee policies and welcomes comments about alternative ways to structure sliding fee scales. In addition, the TWC seeks comments about involvement of Local Workforce Development Boards in establishing policies for parent fees and provider payment rates.

Mark Hughes, Labor Market Information Department, has determined that §809.3 could result in a shift of some employment from the public sector to the private sector but that the Labor Market Information Department has no basis to believe that this proposed section change would have any significant overall impact upon employment conditions in the state.

Randy Townsend, Director of Finance, has determined that for the first five-year period the sections are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal or the new rules of these sections.

Charlotte Brantley, Director of the Child Care/Work & Family Clearinghouse Department, has determined that for each year of the first five years these sections are in effect, the public benefit anticipated as a result of enforcing the sections will be greater ease in finding specific rules by grouping them under subchapter titles; elimination of rule content duplication; consolidation of eligibility funding rules; clarification regarding how the changes in federal law affect the child care program; and consistency between rules and current policy.

Randy Townsend, Director of Finance, has also determined there will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed or costs associated with implementing these sections.

Comments on the proposed sections may be submitted to Shelley Bjorkman, Child Care Specialist, Child Care/Work & Family Clearinghouse Department, 101 East 15th Street, Room 416T, Austin, Texas 78778. A 30-day comment period and public hearings will be held to receive and discuss comments from the public and to facilitate the exchange of information with interested parties regarding the proposed rules. Locations for the hearings are as follows: Child Care Public Hearings will be held on June 20, 1997 in Fort Worth, Texas 6:30 p.m. - 8:30 p.m., Radisson Plaza Hotel, 815 Main Street, (817) 870-2100; June 23, 1997 in El Paso, Texas, 12:00 noon - 2:00 p.m., Ysleta I.S.D., 9600 Sims, (915) 595-5511; June 24, 1997 in Lockhart, Texas, 4:00 p.m. - 7:00 p.m., Lockhart City Hall, Glosserman Room, 308 W. San Antonio, (512) 398-2461 x 221; and June 23, 1997 in Beaumont, Texas, 10:30 a.m. - 12:30 p.m., Beaumont Hilton, 2355 IH 10 South, (409) 842-3600.

For a breakdown of the new rules which incorporate the changes, requests should be sent to Ms. Bjorkman at the address previously listed, or may be submitted by telephone to (512) 936-3210.

40 TAC §§809.1-809.20, 809.22-809.39, 809.41-809.53, 809.55, 809.57-809.58, 809.60-809.65, 809.67-809.88

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The repeals affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.1. *Authorized Payment Documentation.*

§809.2. *Child Care Management Services (CCMS) Contractor.*

§809.3. *Child Care Management Services (CCMS) Child Care Advisory Council.*

§809.4. *Funding for Child Care Management Services (CCMS).*

§809.5. *Assessing Needs and Resources.*

§809.6. *Requirements for Child Care Management Services (CCMS) Subcontracts.*

§809.7. *Vendor Recruitment.*

§809.8. *Child Care Management Services (CCMS) Contractor's Provision of Training and Technical Assistance to Vendors.*

§809.9. *Child Care Management Services (CCMS) Staff Requirements.*

§809.10. *Child Care Management Services (CCMS) Insurance Requirements.*

§809.11. *Intake.*

§809.12. *Basic Eligibility Requirements To Obtain Child Care Services from the Child Care Management Services (CCMS) System.*

§809.13. *Eligibility for Title IV-A Funded Child Care Services.*

§809.14. *Exceptions to Eligibility.*

§809.15. *Waiting Lists.*

§809.16. *Child Care for Abused and Neglected Children.*

§809.17. *Evaluation of a Parent's Need for Child Care.*

§809.18. *Child Care During Employment Interruption.*

§809.19. *Job Opportunities and Basic Skills Training (JOBS) Child Care While Waiting To Enter an Approved Initial JOBS Component.*

§809.20. *Job Opportunities Basic Skills (JOBS) Child Care During On-the-Job Training (OJT).*

§809.22. *Sanctions.*

§809.23. *Time Limits for Education or Training-Related Child Care.*

§809.24. *Assessing Required Parent Fees.*

§809.25. *Reduction of Assessed Parent Fees.*

- §809.26. *Vendor Payment Based on Child Care Enrollment.*
- §809.27. *Inclusion Plan Requirements for Children with Disabilities.*
- §809.28. *Attendance Requirements.*
- §809.29. *Termination of Enrollment Due to Excessive Absences.*
- §809.30. *Monitoring Program Compliance.*
- §809.31. *Contract Violations and Service Improvement Agreements.*
- §809.32. *Audits of Child Care Management Services (CCMS) Contractors.*
- §809.33. *Basis of Payment for Child Care Management Services (CCMS) Contractor Operations Expense.*
- §809.34. *Billing by a Child Care Management Services (CCMS) Contractor.*
- §809.35. *Client Registration.*
- §809.36. *Required Forms.*
- §809.37. *Units of Service in Child Care.*
- §809.38. *Establishment of Maximum Reimbursement Rates.*
- §809.39. *Establishment of Individual Child Care Management Services (CCMS) Vendor Reimbursement Rates.*
- §809.41. *Vendor Reimbursement for Transportation.*
- §809.42. *Vendor Billing Requirements.*
- §809.43. *Vendor Collection of Assessed Parent Fees and Child Care Subsidies.*
- §809.44. *Parent Payments of Assessed Parent Fees and Child Care Subsidies.*
- §809.45. *Vendor Requirements.*
- §809.46. *Designated Vendors.*
- §809.47. *Child Care Management Services (CCMS) Vendor Agreements and Vendor Manuals.*
- §809.48. *Attendance over Licensed Capacity.*
- §809.49. *Vendor Agreement Violations and Service Improvement Agreements.*
- §809.50. *Vendors Violating Minimum Licensing Standards.*
- §809.51. *Amendments and Renewal of Vendor Agreements.*
- §809.52. *Parent Advisory Groups.*
- §809.53. *Parent Payments for Self-Arranged Care.*
- §809.55. *Waiver Requests.*
- §809.57. *Eligibility for Food Stamp Employment and Training Related Child Care.*
- §809.58. *Child Care Management Services (CCMS) Vendor Payments.*
- §809.60. *Verification and Determination of Client Eligibility for Purchased Child Care Services.*
- §809.61. *Authorization of Child Care Services.*
- §809.62. *Priority for Intake Services.*
- §809.63. *Eligibility for Title XX-Funded Child Care.*
- §809.64. *Eligibility for Child Care and Development Block Grant (CCDBG) Funded Child Care.*
- §809.65. *Self-Arranged Child Care.*
- §809.67. *Rights of People Applying for and Receiving Child Care Services Through the Child Care Management Services (CCMS) System.*
- §809.68. *Responsibilities of People Applying for and Receiving Child Care Services Through the Child Care Management Services (CCMS) System.*
- §809.69. *Eligibility for Child Care Services Based on Income.*
- §809.70. *Redetermination of Eligibility for Child Care Services.*
- §809.71. *Provision of Child Care Services During an Appeal.*
- §809.72. *Parent or Caretaker Fraud.*
- §809.73. *Provider or Vendor Fraud.*
- §809.74. *Reapplication for Vendor Status after Termination or Non-renewal of the Vendor Agreement.*
- §809.75. *Responsibility of the Texas Department of Human Services (DHS) for Establishing Procedures for Quality Assurance (QA) Monitoring of Child Care Management Services (CCMS) Contractors and Recoupment Based on Quality Assurance Monitoring Findings.*
- §809.76. *Special Projects.*
- §809.77. *Responsibilities of the Child Care Management Services (CCMS) Contractor for Recovery of Overpayment for Child Care Services.*
- §809.78. *Responsibilities of the Child Care Management Services (CCMS) Contractor for Handling Suspected Fraud.*
- §809.79. *Determination of Family Members in the Child Care Program.*
- §809.80. *Child Care During Interruptions to Education or Training Activities.*
- §809.81. *Deduction of Parent Fees and Child Care Subsidies from Child Care Management Services (CCMS) Vendor Reimbursements.*
- §809.82. *Administrative Requirements for Child Care Management Services (CCMS).*
- §809.83. *Citizenship and Residency Requirements To Receive Child Care Services.*
- §809.84. *Income Inclusions for Child Care Eligibility Determination.*
- §809.85. *Quality Assurance (QA) Performance Indicators and Standards.*
- §809.86. *Recoupment Methodology for Administrative Costs Based on Quality Assurance (QA) Findings.*
- §809.87. *Informal Reviews and Formal Appeals.*
- §809.88. *Additional Transitional Child Care Eligibility Criteria.*

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

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Subchapter A. General Provisions

40 TAC §§809.1-809.4

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.1. Short Title and Purpose.

These rules may be cited as the Texas Child Care and Development Rules. The purpose of these rules is to interpret and implement the provisions of state and federal funding sources for child care services and child care quality improvement activities.

§809.2. Definitions.

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

Board – Board refers to the Local Workforce Development Board as detailed in §801.1(b) of this title (relating to Requirements for Formation of Local Workforce Development Boards).

CCMS – CCMS refers to Child Care Management Services.

CCT – CCT refers to Child Care Training.

Child Care Management Services (CCMS) system – The CCMS is a service delivery system used by the Commission to manage purchased child care services for eligible clients. The primary functions of a CCMS contractor are to provide client services, vendor management and financial management in a local workforce development area as defined by the Commission. The CCMS contractor also manages specific Commission quality improvement initiatives and coordinates with the Commission's Child Care Training contractor to provide training needed by CCMS vendors.

Commission – Commission refers to the Texas Workforce Commission.

Debarment – In accordance with Federal Executive Order 12549, an action taken by a debarring official in accordance with 45 CFR Part 76 (or comparable federal regulations) to exclude a person from participating in a covered contract. A person so excluded is "debarred."

Family Members– Family Members include one or more of the individuals as indicated in subparagraphs (A)-(E) of this definition when determining family membership for child care services.

(A) Parent or caretaker—an adult responsible for the care and supervision of the child identified as the child's natural parent, adoptive parent, or stepparent or legal guardian.

(B) Second parent or caretaker—a second adult responsible for the care and supervision of the child identified as the child's natural parent, adoptive parent, or stepparent, or parent's spouse including common-law spouse or legal guardian.

(C) Children—children must be under 18 years of age or age 18, regularly attend high school or its equivalent full time and expect to graduate before or during the month of their 19th birthday. Children include:

(i) natural children of either or both parents or caretakers;

(ii) adopted children of either or both parents or caretakers;

(iii) children for whom either or both parents or caretakers have legal responsibility granted by the court;

(iv) children for whom either or both parents or caretakers physically provide supervision and care;

(v) children of a teen parent for whom either or both of the teen's parent are the legal guardian, or caretaker; and

(vi) children who are the siblings of either parent or caretaker and for whom either or both are legal guardian or caretaker.

(D) Teen parents or caretakers are considered as a separate family unit in the following situations:

(i) the teen is under 18 years of age and has children or siblings and as a group they live alone or with people who are not their parents, legal guardians, or caretakers;

(ii) the teen lives with her parent but is 18 years of age and has children; or

(iii) the teen lives with her parent but is under 18 years of age, is or has been married and has children.

(E) Other adults in the household are included in the household only if considered as a dependent for income tax purposes.

Local workforce development area—The geographic area for which a Board, CCMS or CCT contractor provides services funded through the Commission.

Seriously deficient – See 7 Code of Federal Regulations, Title II, Food and Consumer Service, USDA, §226.6(c).

Serious non-compliance – Serious non-compliance used in this chapter may include but not limited to one or more of the items indicated in subparagraphs (A)-(E) of this definition.

(A) Children in care – Children exposed to serious physical harm or injury or to substantial risk of exposure to harm or injury or children who sustained physical harm or injury.

(B) Financial – The failure to return any advance payment owed to the contracting entity, state or federal program which exceeded the amount earned for allowable activities; overpayments owed to the state or federal program/failure to return disallowed payments; claims for services not rendered; misuse of appropriated funds; or, history of administrative or financial mismanagement. These may be found during an audit or a monitoring visit by a regulatory agency.

(C) Record keeping – The submission of false information to any state or federal program or contracting entity; failure to keep or maintain required documentation or records; irregular or false billing statements or financial records. See §809.151 of this title (relating to Parent or Caretaker Fraud) and §809.152 of this title (relating to Provider or Vendor Fraud).

(D) Regulations – The failure to maintain compliance with or to be in corrective or adverse action with the registration, licensing, regulatory or approval criteria and standards regarding Child Care as set forth by the following agencies: The Texas Department of Protective and Regulatory Services (TDPRS) Child Care Licensing's "Minimum Licensing Standards for Child Care Centers," "Minimum Licensing Standards for Group Day Homes," and "Minimum Registration Standards;" the Texas Department of Health's standards for youth (day) camps; and, the United States Military's standards for operating a military child care center or family day home.

(E) Other – Such other wrongdoing or improper acts that are a violation of the laws, regulations, policies or procedures governing the conduct of a CCMS contractor, a child care provider or other party subject to this chapter.

TANF – Temporary Assistance to Needy Families (formerly referred to as AFDC).

Texas Early Care and Education Professional (Career) Development System – This is a proposed system sponsored by the Head Start Collaboration Project (a federally funded initiative) to create a professional training and certification program for all early care and education staff in the State of Texas. Early care and education includes Head Start, public school and child care programs. The key components of the proposed system include professional standards for career roles and training; coordinated and articulated training across educational and instructional systems; and, a personnel registry and credentialing system for practitioners and trainers.

Vendor – Vendor refers to child care providers who sign an agreement with the CCMS contractor to care for CCMS referred children.

§809.3. *Board Planning, Oversight and Evaluation of Child Care Services.*

(a) In implementing the provisions of House Bill 1863, 74th Legislature, 1995, the Commission has given Boards specific options regarding the planning, oversight and evaluation of the child care services program. In partnership with the Commission, the options allow the Boards to procure, renew and/or manage both the Child Care Management Services (CCMS) contracts and Child Care Training (CCT) contracts in their local workforce development area.

(b) The parameters of these options are spelled out in the Commission Board Planning Guidelines and the Commission contract with each individual Board.

(c) The Boards must have qualified staff as defined by the Commission in the Commission Board Planning Guidelines and Commission contract to conduct these activities and to ensure that the CCMS and CCT contractors are complying with the terms of their contracts, Commission rules, policies and procedures.

(d) The Board may be:

(1) substituted for the Commission in sections contained in this chapter that address activities for which the Board has assumed full responsibility; and/or

(2) included with the Commission in this title that address activities for which the Board has assumed partial and/or joint responsibility with the Commission.

(e) The Board may not be substituted for or included with the Commission in this chapter that address activities for which the Commission has sole responsibility.

§809.4. *Board Procedures for Developing Additional Requirements for Child Care Services.*

(a) The Boards may only develop additional requirements for child care services in those areas specified in the Board's contract with the Commission. The Board must ensure that those individuals and/or entities who will be affected by the proposed changes are notified of and given an opportunity to comment about those changes. The procedures shall, at a minimum, include:

(1) publishing the proposed changes in at least two local newspapers to ensure coverage throughout the local workforce development area;

(2) making written copies of the requirements available;

(3) having a public comment period for at least 30 days; and,

(4) holding a public hearing regarding the proposed requirements, before their adoption.

(b) The Board must demonstrate to the satisfaction of the Commission how concerns expressed as part of the procedures outlined in subsection (a)(1)-(4) of this section have been addressed prior to the Board finalizing the proposed requirements.

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

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Subchapter B. Contractor Requirements

40 TAC §§809.21–809.33

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.21. *Child Care Management Services (CCMS) Contractor.*

(a) CCMS contractors must be stable, efficient, financially sound entities whose staff exhibit an understanding of child care including its purchase from other vendors.

(b) Criteria for these requirements are stated in the competitive procurement packages provided by the Commission.

(c) Policy for competitive procurement is as specified in Title 15, Procurement, in the Texas Workforce Commission Financial Manual for Contracts and Grants.

§809.22. Child Care Management Services (CCMS) Staff Requirements.

The CCMS contractor must hire staff who meet the qualifications and perform the job functions as defined by the Commission in the CCMS contract and the CCMS Contractor Manual.

§809.23. Administrative Requirements for Child Care Management Services (CCMS).

The Commission and the CCMS contractor must comply with Office of Management and Budget Circular A-102 or A-110 as clarified by federal regulations and Commission guidelines. These circulars contain administrative requirements, applicable to entities receiving federal funds, such as property management and procurement.

§809.24. Funding for Child Care Management Services (CCMS).

The CCMS contractor manages budgets of multiple funds and conducts fiscal and statistical tracking and reporting as required by the Commission.

§809.25. Assessing Needs and Resources.

The Child Care Management Services (CCMS) contractor must document information on the child care needs and resources for the geographic area served and must update the information at least annually. The CCMS contractor must collect, update, and maintain the required data according to Commission policies and procedures in the CCMS Contractor Manual. The data must be available for Commission staff to review on monitoring visits to the CCMS contractor.

§809.26. Child Care Management Services (CCMS) Recruitment of Vendors.

(a) The CCMS contractor contracts with vendors to meet the child care needs for persons eligible to receive services listed in §809.61 of this title (relating to Basic Eligibility Requirements To Obtain Child Care Services from the Child Care Management Services (CCMS) System).

(b) CCMS contractors recruit vendors, when necessary, to establish or maintain a vendor base to meet the needs of eligible families according to Commission policies and procedures in the CCMS Contractor Manual.

§809.27. Child Care Management Services (CCMS) Contractor's Provision of Training and Technical Assistance to Vendors.

(a) The CCMS contractor must provide orientation, technical assistance, and ongoing training to vendors regarding:

(1) vendor requirements which are specified in the CCMS Vendor Agreement and Vendor Manual; and

(2) the Commission's Voluntary Program Criteria for child care providers which is specified in the CCMS Contractor Manual.

(b) The CCMS contractor must also provide orientation, technical assistance or training on other topics or special projects as required by the Commission.

(c) The CCMS contractor must ensure that orientation, training, and technical assistance required in subsections (a) and (b) of

this section are accessible to all vendors in the local workforce development area covered by the CCMS contractor.

§809.28. Required Forms.

The Child Care Management Services contractor must submit and maintain information on forms as specified in his or her contract with the Commission.

§809.29. Child Care Management Services (CCMS) Child Care Advisory Council.

(a) The CCMS contractor must organize and maintain a Child Care Advisory Council.

(b) The CCMS Child Care Advisory Council provides recommendations to the CCMS contractor on services provided by the CCMS contractor.

(c) The CCMS Child Care Advisory Council must represent the area served by the CCMS contractor and must be balanced geographically, ethnically, economically, and by provider type.

(d) The CCMS Child Care Advisory Council must include parents and child care providers. The advisory council must also include representatives of the following groups, if the group exists in the local workforce development area covered by the CCMS contractor:

- (1) resource and referral agencies;
- (2) Early Childhood Intervention (ECI) programs;
- (3) public school education programs;
- (4) Head Start programs;
- (5) employment and training programs;
- (6) child care associations;
- (7) child care staff training providers; and
- (8) other agencies that provide services or funding for child care.

(e) The Commission will verify the composition of the membership.

(f) A Commission regional staff person must attend meetings of the advisory council as an ex-officio member.

(g) The CCMS Child Care Advisory Council must meet at least three times per year; and as deemed necessary by the advisory council chair in order to address advisory council business.

(h) Notice of all Child Care Advisory Council meetings must be posted in a public place at least 72 hours in advance of the scheduled meeting.

(i) The CCMS Child Care Advisory Council may be reimbursed for travel and related expenses.

§809.30. Special Projects.

The Child Care Management Services (CCMS) contractors may be required by the Commission to oversee, disperse funds for, or implement special projects that involve services to parents, children, or child care providers. The CCMS contractor must follow Commission policies and procedures in the CCMS contract and the CCMS Contractor Manual for each project.

§809.31. Requirements for Child Care Management Services (CCMS) Subcontracts.

(a) CCMS contractors are not permitted to subcontract with other entities for complete provision of a primary CCMS function of client services, vendor management, or financial management.

(b) A written subcontract that describes the services performed by the subcontractor must be signed by the subcontractor and the CCMS contractor.

(c) The CCMS contractor must receive Commission approval before procuring and documenting subcontracts.

§809.32. Child Care Training.

Child care training purchased with Commission funds must improve the skill level of early care and education staff in the state of Texas. All child care training offered through Commission contractors and Commission subcontractors will adhere to Commission guidelines which incorporate components of the proposed Texas Early Care and Education statewide Professional (Career) Development System.

§809.33. Waiver Requests.

The Commission may waive child care rules if the waiver benefits a client, contractor, or a vendor and does not harm Commission child care services or violate state or federal laws or regulations.

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

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Subchapter C. Child Care Provider Requirements

40 TAC §§809.41-809.48

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.41. Self-Arranged Child Care.

(a) The Commission uses all available funding sources, except those used for Texas Department of Protective and Regulatory Services (TDPRS) in-home Child Protective Services (CPS) cases, to reimburse eligible parents for payments made to an eligible provider for self-arranged child care.

(b) Eligibility for self-arranged child care (SACC) must be determined and authorized according to §809.84 of this title (relating to Verification and Determination of Client Eligibility for Child Care Services) and §809.87 of this title (relating to Authorization of Child Care Services) and with the exception of clients in open in-home

CPS cases, who are not eligible for SACC, and are managed by the TDPRS CPS caseworkers.

(c) Clients who use foster care child care are only eligible for SACC with providers who are licensed or registered by TDPRS child care licensing or another state regulating body that conducts routine monitoring and has been approved by CPS.

(d) All other clients are eligible for care with a provider of self-arranged child care who is at least 18 years of age and satisfies either of the requirements stated in paragraphs (1) or (2) of this subsection.

(1) A provider qualifies who complies with §809.42 of this title (relating to Vendor Requirements) or another Commission approved federal, state or local governmental entity.

(2) A provider qualifies who is one of the following relatives of the eligible child:

(A) grandparent;

(B) great-grandparent;

(C) aunt;

(D) uncle; or

(E) sibling who is not living in the same household as the eligible child.

§809.42. Vendor Requirements.

To become a vendor under a Child Care Management Services (CCMS) contractor, the child care provider must:

(1) be licensed or registered by the Texas Department of Protective and Regulatory Services (TDPRS) Child Care Licensing Division unless licensed by the Texas Department of Health (TDH) as a youth (day) camp or unless operated and monitored by the United States Military Services;

(2) not be currently in corrective or adverse action with the TDPRS, the TDH, or the United States Military;

(3) carry \$300,000 or more per occurrence of liability insurance depending upon licensed capacity for the facility; and

(4) carry commercial transportation insurance if transporting children and if a child care center.

§809.43. Child Care Management Services (CCMS) Vendor Agreements and Vendor Manuals.

(a) Vendors must have a written and signed vendor agreement with a CCMS contractor in order to be paid for providing child care services to CCMS-referred children.

(b) To be a valid vendor agreement, both the vendor and the CCMS contractor must sign and date the CCMS vendor agreement on or before the effective date of the agreement.

(c) The vendor will not be paid for providing child care services to CCMS-referred children on any day before the effective date or after the termination date of a valid CCMS Vendor Agreement.

(d) The CCMS contractors must use the vendor agreement required by the Commission.

(e) The CCMS contractor must also ensure that every vendor receives a copy of the most current CCMS Vendor Manual as part

of the agreement with the CCMS vendor and sends revised copies to the vendor upon receiving the revision from the Commission.

§809.44. Amendments and Renewal of Vendor Agreements.

(a) Vendor agreements are limited to one year and end on the date shown on the vendor agreement form.

(b) The Child Care Management Services (CCMS) contractor must renew vendor agreements if the vendor:

(1) continues to meet all requirements as stated in §809.42 of this title (relating to Vendor Requirements);

(2) has satisfied the requirements of the Vendor Agreement;

(3) has no unresolved service improvement agreements with the CCMS contractor;

(4) is willing to renew the Vendor Agreement; and

(5) has maintained a satisfactory compliance record with minimum licensing standards as defined by the Texas Department of Protective and Regulatory Services (TDPRS).

(c) The vendor must inform the CCMS contractor immediately upon knowledge of and prior to:

(1) moving the facility;

(2) selling the facility;

(3) changing the governing body; or

(4) making any other changes in the child care services delivered which could modify either the license or the Vendor Agreement.

(d) The vendor must also inform the CCMS contractor whenever the TDPRS Child Care Licensing Division (CCL) has issued a new license for the facility or placed any conditions on the license.

(e) The requirement to inform the CCMS contractors of changes set forth in subsection (c) of this section does not release the vendor from liability to inform TDPRS CCL of these changes.

(f) Failure to inform the CCMS contractor of changes could result in sanctions against the vendor as set forth in §809.142 of this title (relating to Vendor Agreement Violations and Service Improvement Agreements (SIA)).

(g) The CCMS contractor must amend or complete a new Vendor Agreement based on the type of change reported by the vendor.

(h) Failure to amend or complete a new Vendor Agreement could result in sanctions against the CCMS contractor as set forth in §809.141 of this title (relating to Contract Violations and Service Improvement Agreements).

§809.45. Vendor Collection of Assessed Parent Fees and Child Care Subsidies.

(a) Vendors must collect assessed parent fees before child care services are delivered. Fees must be collected at least monthly but may be prorated for payment on a more frequent basis. Vendors keep the fees collected.

(b) Vendors must also collect the child care subsidies parents receive from other state or federal programs.

(c) Vendors must notify the Child Care Management Services (CCMS) contractor when parents have not paid the parent fee and/or the child care subsidy.

(d) Vendors' collection of parent fees and child care subsidies will be monitored by the CCMS contractor.

(e) Failure on the part of vendors to collect parent fees or child care subsidies or to notify the CCMS when parent fees have not been paid may result in corrective or adverse action being taken against the vendor.

§809.46. Attendance Requirements.

Vendors must document and maintain a record of each child's attendance. When an enrolled child is absent, vendors must inform the Child Care Management Services (CCMS) contractor and must follow procedures required by the Commission and the CCMS contractor. The CCMS contractor must follow up on each child's absences, as required by the Commission. Failure by the CCMS contractor to follow up on each child's absences as required by Commission may result in withholding payment from the CCMS contractor. Failure by the vendor to keep attendance records as required by the Commission may result in withholding payment from the vendor or in termination of the Vendor Agreement.

§809.47. Parent Advisory Groups.

(a) If the Commission funds are used to purchase more than 30% of a vendor's licensed capacity, the vendor must establish and maintain a Parent Advisory Group.

(b) Vendors required to set up a parent advisory group must develop and implement written policies that describe the membership and functions of the Parent Advisory Groups. The Commission must approve the policies.

(c) The vendor must ensure that the Parent Advisory Group meets at least twice a year to address the concerns of the parents of enrolled children.

§809.48. Commission Voluntary Program Criteria for Child Care Providers.

Child Care Management Services (CCMS) vendors may volunteer to become certified vendors by agreeing to meet the Commission's Voluntary Program Criteria that are published by the Commission in excess of licensing minimum standards. The vendor must complete an application for assessment and must document that prerequisite criteria are met. The CCMS contractor must provide the vendor with the Voluntary Program Criteria to review prior to assessment.

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

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Subchapter D. Client Eligibility Requirements

40 TAC §§809.61 - 809.78

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.61. *Basic Eligibility Requirements To Obtain Child Care Services from the Child Care Management Services (CCMS) System.*

(a) CCMS contractors purchase child care services for individuals described in this subsection.

(1) Purchased child care applies to parents or caretakers who need child care for children under age 13 in order to participate in training, education, or employment activities.

(2) Purchased child care also applies to children under age 13 referred by the Texas Department of Protective and Regulatory Services (TDPRS) Child Protective Services (CPS) program.

(3) Purchased child care also applies to older children who are mentally or physically incapable of caring for themselves if they are:

(A) under age 18; or

(B) age 18, regularly attending high school or its equivalent, and are expected to graduate before or during the month of their 19th birthday.

(b) Parents or caretakers who are recipients of Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), or Transitional Child Care benefits or who are participating in the Commission funded pre-kindergarten program as stated in §809.65(3) of this title (relating to Eligibility Criteria for Commission Funded Child Care Services) or who have been referred by the Food Stamp Employment and Training (FS E & T) Program or the TDPRS CPS program are served without regard to income.

(c) Families whose children are recipients of TANF or SSI benefits must meet the income requirements listed in §809.67 of this title (relating to Income Limits for Child Care Services).

(d) Parents or caretakers who receive food stamps but are not participating in the FS E & T program must meet the income requirements listed in §809.67 of this title.

(e) All other parents or families must meet the income requirements listed in §809.67 of this title.

§809.62. *Evaluation of a Parent's Need for Child Care.*

(a) When evaluating the need for child care for parents who meet the requirements stated in §809.84(c) of this title (relating to Verification and Determination of Client Eligibility for Child Care Services), the Child Care Management Services (CCMS) contractor must consider if:

(1) there are other sources of child care available; and

(2) the parent needs the child care in order to participate in training, education, or employment activities.

(b) The CCMS contractor authorizes child care for the number of hours needed to support the parent's participation in employment, education, or training activities.

(c) In order for a two-parent family to be eligible to receive child care, both parents must be employed or in training unless one parent is permanently incapacitated.

§809.63. *Citizenship and Residency Requirements To Receive Child Care Services.*

The Commission and contracted provider staff do not deny services based on citizenship or duration of residency.

§809.64. *Child Care for Abused and Neglected Children.*

(a) The Texas Department of Protective and Regulatory Services (TDPRS) purchases child care from the Commission for abused and neglected children or children determined to be at risk of abuse or neglect by a TDPRS caseworker who are in either:

(1) protective cases managed by a TDPRS Child Protective Services (CPS) caseworker; or

(2) CPS cases managed by a CPS Family Preservation contract provider.

(b) TDPRS CPS caseworkers or CPS Family Preservation contract providers must authorize child care for these clients. They must use the forms and procedures required by the TDPRS and the Commission.

(c) Child protective services clients receive child care for the following reasons:

(1) to enable the child to remain in the home while the parent pursues rehabilitation;

(2) to reduce the detrimental effects of abuse and neglect by providing the child with developmentally appropriate experiences in the areas of physical, social, emotional, cognitive, and language development;

(3) to allow foster parents to work; or

(4) to prevent disruption or relocation of a foster care or adoption placement.

(d) In-home CPS clients must be enrolled with a CCMS vendor who meets the Voluntary Program Criteria; CPS clients in foster care may be enrolled in vendor facilities or may self-arrange child care in regulated facilities.

§809.65. *Eligibility Criteria for Commission Funded Child Care Services.*

The Commission uses the Child Care and Development Fund, Social Services Block Grant, Child Care and Development Block Grant, Food Stamp Employment and Training (FS E & T) funds and General Revenue funds to purchase child care for clients who meet the requirements stated in paragraphs (1)-(5) of this section and who meet basic eligibility requirements in §809.2 of this title (relating to Definitions), §809.61 of this title (relating to Basic Requirements To Obtain Child Care Services from the Child Care Management Services (CCMS) System), §809.66 of this title (relating to Additional Transitional Child Care Eligibility Criteria), §809.67 of this title (relating to Income Limits For Child Care Services) and §809.68 of this title (relating to Income Inclusions For Child Care Eligibility Determination).

(1) Child care is purchased for families who meet the eligibility requirements stated in of the Texas Human Resources Code, Chapter 31 for clients participating in the Commission's Employment Program for Temporary Assistance to Needy Families Recipients and the Transitional Child Care Program.

(2) Child care is also purchased for children in families who are at risk of becoming dependent upon government assistance are indicated in subparagraphs (A)-(D) of this paragraph.

(A) Children in families who are at risk of becoming dependent upon government assistance include children in families who meet the income requirements in §809.67(a)(1) and whose parents are either working, or in training, or school. These children will continue to receive child care according to the criteria specified in §809.67(b).

(B) Children in families who are at risk of becoming dependent upon government assistance also include children whose teen parents need child care in order to complete high school or the equivalent and whose family income meets the criteria specified in §809.67(a)(2) and whose family members are determined by §809.2.

(C) Children in families who are at risk of becoming dependent upon government assistance also include children with disabilities in families whose income meets the criteria specified in subsection §809.67(a)(1) and whose parents are working, or are in training, or school. The cost of children's ongoing medical expenses must be deducted from the family's income before determining the family's eligibility status.

(D) Children in families who are at risk of becoming dependent upon government assistance also include children receiving child care as specified in §809.64 of this title (relating to Child Care for Abused and Neglected Children). This group may receive Commission funded child care services without regard to income on a case by case basis for up to six months after they are no longer eligible to receive child care purchased by the Texas Department of Protective and Regulatory Services (TDPRS) Child Protective Services (CPS). TDPRS CPS caseworkers or CPS Family Preservation contract providers required by TDPRS must authorize child care services for these clients. They must use the forms and procedures required by the TDPRS and the Commission's child care program.

(3) Child care is also purchased for parents who are working, or in training, or school, and have children enrolled in a state pre-kindergarten program offered by a school district participating in at-risk child care certification. This eligibility category is served without regard to income according to §809.61(b) of this title.

(4) Child care is also purchased for children in families whose parents are either working, or are in training, or school, and whose families meet additional eligibility criteria established and presented in the Commission Board Planning Guidelines. These families must also meet the income criteria specified in §809.67(c) of this title.

(5) Child care is also purchased for children in families participating in the FS E & T program according to 7 Code of Federal Regulations, Part 273, and according to §809.61(a) and (b) of this title.

§809.66. *Additional Transitional Child Care Eligibility Criteria.*

(a) In addition to clients guaranteed child care under §809.65(1) of this title (relating to Eligibility Criteria for Commission Funded Child Care Services), clients who meet the requirements specified in, Human Resources Code, Subchapter A, Chapter 31, §31.0035(a)(2) and §31.012(c) are also guaranteed child care to accept employment or remain employed.

(b) Except as described in paragraphs (1) and (2) of this subsection, the client must be employed to receive these benefits.

(1) If the client is not employed at the time the client loses Temporary Assistance to Needy Families (TANF) benefits, the client can receive child care for up to the first four weeks of the Transitional Child Care eligibility period, as needed, to seek employment.

(2) If the client is enrolled in and attending an education or training program that is not yet completed at the time the client loses TANF benefits, the client can receive child care for up to the first eight weeks of the Transitional Child Care eligibility period, as needed, to continue attending the education or training program. At the end of the eight weeks or when the client completes the education or training program, whichever occurs earlier, the client can receive up to the next four weeks of the Transitional Child Care eligibility period to seek employment.

(c) Clients receiving child care benefits according to subsections (a) and (b) of this section, must comply with parent fee requirements as specified in §809.89 and §809.91 of this title (relating to Assessing Required Parent Fees and Parent Payments of Assessed Parent Fees and Child Care Subsidies).

(d) Clients receiving child care benefits according to subsections (a) and (b) of this section must also comply with all rules that apply to clients receiving child care benefits under §809.65 of this title.

§809.67. *Income Limits for Child Care Services.*

(a) To determine eligibility for child care services based on income for families described in §809.65(2)(A),(B),(C) and (4) of this title (relating to Eligibility Criteria for Commission Funded Child Care Services), the Child Care Management Services (CCMS) contractor must determine:

(1) that the family's total gross income is at or below either 150% of the Federal Poverty Income Limits (FPIL) or 75% of the State Median Income (SMI) whichever is lower for the family size; or

(2) for teen parents who need child care in order to complete high school or the equivalent, that the family's total gross income is at or below 75% of the SMI.

(b) Child care services may continue for one year for families described in subsection (a)(1) of this section after the family income exceeds 150% of the FPIL provided that the family income remains at or below 75% of the SMI.

(c) To determine eligibility for child care services for families described in §809.65(4) of this title the CCMS contractor must determine that the family's total gross income remains at or below 85% of the SMI.

§809.68. *Income Inclusions for Child Care Eligibility Determination.*

(a) The family's monthly gross income is the total of the items listed in paragraphs (1)-(19) of this subsection.

(1) The family's monthly gross income includes the family's total gross earnings before deductions are made for taxes. These earnings include money, earnings of a child between 14 and 18 years old who is not in school, wages, or salary the family member receives for work performed as an employee. Wages or salary include armed forces pay (including allotments from any armed forces received by a family group from a person not living in the household), commissions, tips, piece-rate payments, and cash bonuses earned. Overtime pay is estimated based on the person's history of receiving this pay.

(2) The family's monthly gross income also includes net income from non-farm self-employment. These earnings include gross receipts minus business-related expenses from a person's own business, professional enterprise, or partnership, which result in the person's net income. Gross receipts include the value of all goods sold and services given. Expenses include costs of purchased goods, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes or self-employment Social Security tax), and similar costs. The value of salable merchandise used by the owners of retail stores is not included as part of net income.

(3) The family's monthly gross income also includes net income from farm self-employment. These earnings include gross receipts minus operating expenses from operation of a farm by the client or the client and his partners. Gross receipts include the value of products sold; governmental crop loans; and incidental receipts from the sale of wood, sand, mineral royalties, gravel, and similar items. Operating expenses include the cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farm workers, depreciation, cash rent, interest on farm mortgages, repairs of farm buildings, farm-related taxes (not personal income taxes or self-employment Social Security tax), and similar expenses. The value of fuel, food, or other farm-related products used for the family's living expenses is not included as part of net income.

(4) The family's monthly gross income also includes social security and railroad retirement benefits. These benefits include Social Security pensions and survivor's benefits, permanent disability insurance payments made by the Social Security Administration (before deductions for medical insurance), and railroad retirement insurance checks from the federal government. Gross benefits from these sources are the amounts before deductions for Medicare insurance.

(5) The family's monthly gross income also includes dividends and interest. These earnings include dividends from stock holdings or membership in associations, interest on savings or bonds, and periodic receipts from estates or trust funds, and net royalties. These earnings are averaged for a 12-month period.

(6) The family's monthly gross income also includes net income from rental of a house, homestead, store, or other property, or rental income from boarders or lodgers. These earnings include net income from rental property which is calculated by prorating and subtracting the following from gross receipts:

- (A) prorated property taxes;
- (B) insurance payments;
- (C) bills for repair and upkeep of property; and

(D) interest on mortgage payments on the property. Capital expenditures and depreciation are not deductible.

(7) The family's monthly gross income also includes interest income from mortgages or contracts. These payments include interest income the buyer promises to pay in fixed amounts over a period of time until the principal of the note is paid.

(8) The family's monthly gross income also includes public assistance payments. These payments include Temporary Assistance to Needy Families (TANF), refugee assistance, SSI, and general assistance (cash payments from a county or city).

(9) The family's monthly gross income also includes pensions, annuities, and irrevocable trust funds. These payments include pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company. Also included are periodic payments from annuities, insurance, or irrevocable trust funds. Gross benefits from civil service pensions are benefits before deductions for health insurance.

(10) The family's monthly gross income also includes veterans' pensions, compensation checks, and G.I. benefits. These benefits include money paid periodically by the Veterans Administration to disabled veterans of the armed forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training and refunds paid to ex-servicemen as G.I. insurance premiums. The Commission or the contracted provider includes only that part of the educational allowance that is used for current living costs.

(11) The family's monthly gross income also includes educational loans and grants. These payments include money received by students as scholarships for educational purposes. The Commission includes only that portion of the money actually used for current living costs.

(12) The family's monthly gross income also includes unemployment compensation. This includes unemployment payments from governmental unemployment insurance agencies or private companies and strike benefits from union funds paid to people while they are unemployed or on strike.

(13) The family's monthly gross income also includes worker's compensation and disability payments. These payments include compensation received periodically from private or public insurance companies for on-the-job injuries.

(14) The family's monthly gross income also includes alimony. These payments are support paid to a divorced person by a former spouse.

(15) The family's monthly gross income also includes child support. These payments include court-ordered child support, any maintenance or allowance used for current living costs provided by parents to a minor child who is a student, or any informal child support payments made by an absent parent for the maintenance of a minor.

(16) The family's monthly gross income also includes cash support payments. These payments are regular cash support payments from friends or relatives received on a periodic basis more than three times a year.

(17) The family's monthly gross income also includes inheritance. This is net income from the client's share of an inheritance.

(18) The family's monthly gross income also includes foster care payments. The total payment made to a client on behalf of a legally assigned foster child or foster adult is counted as income.

(19) The family's monthly gross income also includes sale of property. This includes capital gains from sale of property.

(b) Income to the family that is not included in subsection (a)(1)-(19) of this section is excluded in determining monthly gross income. Do not include monthly Food Stamp benefits as income.

§809.69. Exceptions to Eligibility.

The Child Care Management Services contractor grants eligibility exceptions to allow eligible families to access services funded by Commission funds if funds are available in the following situations:

(1) a child has a sibling living in the same household who is currently enrolled in child care paid for by the Commission; or

(2) an eligible teen parent needs child care in order to complete high school or the equivalent and her parent (the grandparent) is not employed or in training and refuses to care for the child. A waiver must be submitted to allow the teen parent to receive child care.

§809.70. Temporary Assistance to Needy Families (TANF) Employment Services Related Child Care During On-the-Job Training (OJT).

The Commission allows eligible parents to receive TANF Employment Services related child care during OJT unless the parent's OJT earnings cause the denial of a TANF grant.

§809.71. Temporary Assistance to Needy Families (TANF) Employment Services Related Child Care While Waiting To Enter an Approved Initial Component of the Commission's Employment Program for TANF Recipients.

The Commission provides TANF Employment Services related child care for up to two weeks for children whose parent is waiting to enter an approved initial component of the Commission's Employment Program for TANF Recipients. The two weeks of child care is allowed when:

(1) child care is available that meets the needs of the child and the parent; and

(2) enrollment will prevent loss of the placement.

§809.72. Child Care During Employment, Education or Training Interruptions.

(a) If the employment, education or training of a parent receiving Commission funded child care is interrupted, the Commission allows child care to continue beginning on the first day of the interruption for up to:

(1) four weeks while the parent seeks or awaits employment or is waiting to begin an education or training activity; or

(2) two months if the parent becomes temporarily incapacitated.

(b) For Food Stamp Employment and Training clients and clients participating in the Commission's Employment Services Program for Temporary Assistance to Needy Families Recipients, the Child Care Management Services contractor must have authorization

from the caseworker to continue care during interruptions in employment, education, and training.

§809.73. Time Limits for Education or Training-Related Child Care.

The Commission limits the time a parent is permitted to receive child care related to education or training as indicated in this section.

(1) Parents whose eligibility is determined by the Commission or employment services contractor as stated in §809.84(a) of this title (relating to Verification and Determination of Client Eligibility for Purchased Child Care Services) and who are participating in the Commission's Employment Program for Temporary Assistance to Needy Families Recipients case plan receive education and training-related child care until their case plan is closed; or

(2) Parents whose eligibility is determined by the Child Care Management Services contractor according to §809.84(c) of this title may receive education and training-related child care until they have completed one of the following:

(A) an associate degree or no more than 65 semester hours of college credit; or

(B) a maximum of two years of post high school technical training.

§809.74. Sanctions and Penalties.

Participants in the Commission's Employment Program for Temporary Assistance to Needy Families Recipients who have been penalized for non-participation are only eligible to receive child care supportive services during the penalty if they re-enter the program and participate satisfactorily in program services.

§809.75. Rights Of People Applying For And Receiving Child Care Services Through The Child Care Management Services (CCMS) System.

Parents or caretakers have the right to:

(1) have persons represent them when applying for child care services;

(2) receive notification of their eligibility to receive child care services within 20 calendar days from the day the CCMS contractor receives all necessary documentation required to determine eligibility for child care services;

(3) be notified in writing by the CCMS contractor at least 12 calendar days before the denial, delay, reduction, or termination of services, except in cases where the child care has been authorized to end immediately because the client is no longer participating in Commission's Employment Program for Temporary Assistance to Needy Families Recipients education or training services and in cases where the child care has been authorized to end immediately for Texas Department of Protective and Regulatory Services (TDPRS) Child Protective Services (CPS) clients. Commission's Employment Program for Temporary Assistance to Needy Families Recipients and CPS clients are notified of denial, delay, reduction, or termination of services and the effective date of such actions by their respective Commission and TDPRS CPS case workers;

(4) request a hearing within 60 days of the receipt of the notice of denied, delayed, reduced, or terminated child care services. The exception is a parent who has a child in a TDPRS CPS in-home case and has not requested the child care services. The CCMS contractor must inform parents how to request a hearing. The parent or caretaker may have someone represent them during this process.

Provisions for child care to continue while awaiting a hearing are found in §809.154 of this title (relating to Provision of Child Care Services During an Appeal);

(5) receive child care services regardless of race, color, national origin, age, sex, disability, political beliefs, or religion;

(6) have the CCMS contractor treat information that is used to determine eligibility for child care services as confidential;

(7) reject an offer of child care services or voluntarily withdraw their child from child care services unless the child is in a CPS in-home protective case;

(8) be informed by the CCMS contractor of the possible consequences of rejecting or ending child care that is offered;

(9) be informed of all child care options available to them and choose the arrangement they desire from these options including information about the various standards that facilities may or must follow;

(10) visit available child care facilities before making their choice of a child care option and visit the facility during the time their child is enrolled; and

(11) receive assistance in choosing initial or additional child care referrals, including information about the Commission's policies regarding transferring children from one facility to another.

§809.76. Responsibilities of People Applying for and Receiving Child Care Services Through the Child Care Management Services (CCMS) System.

Parents or caretakers must meet the requirements contained in this section.

(1) Parents or caretakers are responsible for providing the CCMS contractor with all information considered necessary to establish eligibility according to the Commission's policies and procedures.

(2) Parents or caretakers must submit required documentation to the CCMS contractor within the time limits required by the Commission including, but not limited to:

(A) eligibility documentation;

(B) CCMS forms; and

(C) submission of Self-arranged Child Care (SACC) claims for services.

(3) Parents or caretakers must meet the time limits required by the Commission or:

(A) have child care services denied or terminated; or

(B) not receive payment for SACC claims.

(4) Parents or caretakers must comply with the Commission and vendor enrollment requirements or have child services denied or terminated.

(5) Parents or caretakers must report changes in income, family size, loss of Temporary Assistance to Needy Families or Supplemental Security Income assistance grants, change in work, education, or training, or any other change that might affect the parent's eligibility for services.

(6) Parents or caretakers must report a change to the CCMS contractor within 12 calendar days of the occurrence of the change. Failure to report changes may result in termination of services or recovery of payments made for services provided during a period of ineligibility caused by the changes listed in paragraph (5) of this section. The receipt of services for which the parent is no longer eligible may constitute fraud.

§809.77. Return of Eligibility Documents From Parents or Caretakers.

If an eligible parent's or caretaker's required documentation is received at the Child Care Management Services (CCMS) contractor after the due date, but the envelope is postmarked on or before the due date, eligibility for child care services must continue.

§809.78. Parent Responsibility Agreement.

(a) The parent or caretaker of a child receiving Commission-funded child care services is required to sign a parent responsibility agreement as part of the child care enrollment process, unless covered by the provisions of Human Resources Code, §31.0031. The parent's compliance with the provisions of the agreement shall be reviewed at each eligibility re-determination.

(b) The parent responsibility agreement requires that:

(1) each parent shall cooperate with the Title IV-D agency if necessary to establish paternity of the parent's children or enforce child support;

(2) each parent shall not use, sell, or possess marijuana or a controlled substance in violation of Health and Safety Code, Title 481, or abuse alcohol;

(3) each child in the family younger than 18 years of age attend school regularly, unless the child has a high school diploma or a high school equivalency certificate or is specifically exempted from school attendance by Education Code, §21.033.

(c) Failure to comply with the provisions of the parent responsibility agreement may result in sanctions.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707580

Esther Hajdar

Deputy Director of Legal Services

Texas Workforce Commission

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 463-8812



Subchapter E. Client Process Requirements

40 TAC §§809.81-809.92

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.81. Intake.

The Child Care Management Services (CCMS) contractor provides intake according to the Commission policies and procedures in the CCMS Contractor Manual for clients requesting child care services that includes:

- (1) informing parents about all types of child care available to them;
- (2) helping parents locate child care that meets the needs of both the parents and the children; and
- (3) ensuring that parents are allowed to choose child care arrangements.

§809.82. Priority for Intake Services.

The Child Care Management Services contractor must allocate intake staff resources proportionately among all client groups so that priority for intake services is assured for the following clients: Texas Department of Protective and Regulatory Services (TDPRS) Child Protective Services cases, Temporary Assistance to Needy Families (TANF) Employment Services and other TANF cases, Food Stamp Employment and Training cases, and Transitional Child Care cases.

§809.83. Waiting Lists.

(a) The Child Care Management Services (CCMS) contractor must maintain the following waiting lists for eligible children:

- (1) a short term funding list for children who have been funded and are waiting for care to be arranged;
- (2) a long term funding list for children waiting for care and funding due to lack of space or lack of funds;
- (3) a short term vendor list for clients in care who have requested transfer to a specific vendor with space that has just become available; and
- (4) a long term vendor list for clients in care who have requested transfer to a specific vendor with no space available.

(b) The CCMS contractor must use the CCMS automated system to maintain waiting lists.

§809.84. Verification and Determination of Client Eligibility for Child Care Services.

(a) The Commission or an employment services contractor determines client eligibility for clients who meet the requirements stated in §809.65 of this title (relating to Eligibility Criteria for Commission Funded Child Care Services).

(b) The Texas Department of Protective and Regulatory Services (TDPRS) determines client eligibility for clients who meet the requirements stated in §809.64 of this title (relating to Child Care for Abused and Neglected Children) and §809.65(2)(D) of this title (relating to Eligibility Criteria for Commission Funded Child Care Services).

(c) The Child Care Management Services (CCMS) contractor determines and documents client eligibility for clients who meet the requirements stated in §809.2 of this title (relating to Definitions), §§809.65, 809.67, and 809.68 of this title (relating to Eligibility Criteria for Commission Funded Child Care Services, Income Limits

for Child Care Services, and Income Inclusions for Child Care Eligibility Determination).

(d) The contractor must verify and document the client's eligibility status before authorizing services for clients whose eligibility was determined by the Commission or employment services contractors and TDPRS as specified in subsections (a) and (b) of this section.

(e) The CCMS contractor must determine, verify, and document client eligibility as specified in subsections (c) and (d) of this section using the forms and procedures required by the Commission in the CCMS Contractor Manual.

§809.85. Redetermination of Eligibility for Child Care Services.

All parents must reapply for child care services at least every six months or earlier if there is a change in their status that could affect their eligibility to receive child care services.

§809.86. Termination of Enrollment Due to Excessive Absences.

(a) The Child Care Management Services (CCMS) contractor must terminate a child's enrollment for excessive absences.

(b) During enrollment for child care, the CCMS contractor must give the parent a written notice of the Commission's excessive absences procedures. The parent must sign the notice indicating that she has received these procedures and understands them. The signed notice must be kept in the child's file.

(c) Termination of enrollment based on excessive absences may result from the following.

(1) An absence of five consecutive days without parental notice to the vendor or CCMS contractor. This is considered a voluntary withdrawal from child care services and constitutes grounds for immediate termination of the absent child's enrollment. The parent may appeal the determination of absence without notice, but the effective date of the termination is not delayed by the appeal. The termination is effective at the end of the fifth consecutive day of absence.

(2) An absence of 30 days in a one-year period. The CCMS contractor must notify the parent in writing that the child's enrollment will be terminated. The parent may appeal the determination of excessive absences, but the effective date of the termination is not delayed by the appeal.

§809.87. Authorization of Child Care Services.

(a) The Child Care Management Services (CCMS) contractor authorizes child care services according to the client's eligibility status, the need for child care, and the availability of funds based on Commission policies and procedures in the CCMS Contractor Manual.

(b) Once enrolled, children receive child care services as long as the parent remains eligible for any available source of funding used by the Commission to purchase child care.

(c) Children currently enrolled in child care through the CCMS system will remain in care when the Board assumes management of the CCMS contract and will remain eligible as long as their families meet the eligibility criteria and funding is available.

§809.88. Client Registration.

(a) The Child Care Management Services (CCMS) contractors must register all children receiving child care services purchased by the Commission on the Texas Department of Human Services' Social Services Management System.

(b) CCMS contractors must keep documentation of the registration.

§809.89. Assessing Required Parent Fees.

(a) The Child Care Management Services (CCMS) contractor must assess parent fees to all parents or caretakers based on the family's gross monthly income, with the following exceptions:

(1) parents or caretakers who receive Temporary Assistance to Needy Families (TANF). In families where the child is the only TANF recipient, a parent fee is assessed;

(2) parents or caretakers who receive Supplemental Security Income (SSI). In families where the child, rather than the parent or caretaker, is the SSI recipient, a parent fee is assessed;

(3) parents or caretakers who participate in the Food Stamp Employment and Training program; and

(4) parents or caretakers who receive Child Protective Services (CPS) unless the Texas Department of Protective and Regulatory Services (TDPRS) CPS caseworker or the CPS Family Preservation contract provider authorizes the CCMS contractor to assess fees to a parent.

(b) Teen parents who live with their parents and who are not covered under exceptions outlined in subsection (a) of this section must be assessed a parent fee. The parent fee is based solely on the teen parent's income.

(c) Parent fees are assessed using the following formulas:

(1) the parent fee must be 9.0% of the family's gross monthly income (the amount recorded on the most recent eligibility certification); if there is one child receiving Commission paid child care;

(2) if there are two or more children receiving Commission paid child care, the parent fee is 11% of the family's gross monthly income (the amount recorded on the most recent eligibility certification);

(d) Parent fees for children enrolled in Independent School District pre-kindergarten extended day programs are reduced to reflect no charge to the parent for the portion of the day that is core pre-kindergarten. The parent fee is assessed at 65% of the usual fee if the core pre-kindergarten program is three hours per day. The fee is assessed at 33% of the usual fee if the core pre-kindergarten program is more than three hours per day.

(e) The CCMS contractor is not permitted to assess a parent fee that exceeds the cost of care.

(f) Parents who receive a child care subsidy from other state or federal programs such as the Job Training Partnership Act must pay that amount in addition to the assessed parent fee. The CCMS contractor must request documentation of child care subsidies from the parent.

§809.90. Reduction of Assessed Parent Fees.

(a) The Child Care Management Services (CCMS) contractor must review the assessed parent fee for possible reduction if there are extenuating circumstances that jeopardize a family's self-sufficiency. The CCMS contractor must reduce the assessed parent fee if warranted by these circumstances.

(b) The CCMS contractor must not waive parent fees under any circumstances.

§809.91. Parent Payments of Assessed Parent Fees and Child Care Subsidies.

(a) Parents or caretakers must pay Child Care Management Services (CCMS) vendors parent fees which have been assessed by the CCMS contractor according to §809.89 of this title (relating to Assessing Required Parent Fees). Failure on the part of the parent to pay the assessed parent fee may result in termination of child care services, unless the parent has:

(1) notified the CCMS contractor; and

(2) requested a reduction in the parent fee within three days beginning the day the fees were due.

(b) Parents and caretakers must also pay CCMS vendors any child care subsidies they have received according to §809.89(e) of this title.

§809.92. Inclusion Plan Requirements for Children with Disabilities.

(a) The Child Care Management Services (CCMS) contractor must keep on file an inclusion plan for all CCMS vendor enrolled children:

(1) who meet the eligibility criteria listed in §809.65 of this title (relating to Eligibility for Commission-funded Child Care Services);

(2) whose vendor receives an inclusion assistance rate, as in §809.105(b) of this title (relating to Establishment of Maximum Reimbursement Rates);

(3) who have been identified by an early childhood intervention program or by a school district as having a disability; or

(4) for whom a CCMS vendor, CCMS vendor management specialist, or parent has requested a plan due to concerns about the child's development.

(b) An inclusion plan is based on recommendations made by a Commission approved professional who has assessed the child's developmental needs. The CCMS contractor must ensure that the child's care is consistent with the inclusion plan for that child.

(c) An inclusion plan will be developed and implemented according to Commission child care policies.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707581

Esther Hajdar

Deputy Director of Legal Services

Texas Workforce Commission

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 463-8812



Subchapter F. Billing and Payment Requirements

40 TAC §§809.101-809.111

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided

in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.101. Child Care Management Services (CCMS) Vendor Payments.

The CCMS contractor must reimburse child care vendors for services provided according to the procedures and time frames specified by the Commission in the CCMS contract and the CCMS Contractor Manual.

§809.102. Vendor Billing Requirements.

(a) Vendors must submit bills after the child care services are provided.

(b) Vendors must submit bills and required documentation to the Child Care Management Services (CCMS) contractor in a timely and efficient manner.

(c) The CCMS contractor is not liable for and will not pay for vendor bills submitted later than 90 days after child care services have been delivered.

§809.103. Units of Service in Child Care.

(a) The Commission purchases child care based on the unit of service delivered, as specified in the following.

(1) a unit of service may be a full day or a part day;

(2) a full day unit of service is six to 12 hours of care within a 24-hour period; and

(3) a part day unit of service is less than six hours of care within a 24-hour period.

(b) Time in care begins when the facility assumes responsibility for the child and includes no more than two hours of transportation a day, excluding field trips.

§809.104. Vendor Payment Based on Child Care Enrollment.

(a) Enrollment with a vendor and payment for the enrollment begin the first day the child is scheduled to attend.

(b) The Child Care Management Services (CCMS) contractor will not pay a vendor for holding a space. If the child does not attend the first three days of scheduled attendance, the vendor has until the close of the third day of scheduled attendance to contact the CCMS contractor regarding the child's absence. Requirements concerning absences and termination of enrollment are specified in §809.46 and §809.86 of this title (relating to Attendance Requirements and Termination of Enrollment Due to Excessive Absences).

(c) The CCMS contractor must not pay the vendor less when a child enrolled full time attends occasionally for a part day. The CCMS contractor must not pay the vendor more when a child enrolled part time attends occasionally for a full day.

§809.105. Establishment of Maximum Reimbursement Rates.

(a) The Commission establishes maximum reimbursement rates for purchased child care in accordance with federal and state laws and regulations and program state plans. Maximum rates are based on the following:

(1) type of child care;

(2) age of the child;

(3) part or full-time care; and

(4) identified need for adult assistance.

(b) Vendors that provide additional adult assistance for a child with disabilities may be paid an inclusion assistance rate up to 190% of their Child Care Management Services (CCMS) reimbursement rate for that child. Before the vendor is paid an inclusion assistance rate, the CCMS contractor must ensure that:

(1) a Commission approved professional has assessed the child using Commission approved forms; and

(2) the authorized inclusion assistance rate considers the estimated cost of the adult assistance needed by a child with disabilities. The level of adult assistance needed has been determined by a Commission approved professional as referenced in paragraph (1) of this subsection.

(c) The maximum rates may be obtained from the Commission or the CCMS contractor.

§809.106. Establishment of Individual Child Care Management Services (CCMS) Vendor Reimbursement Rates.

(a) The CCMS contractor pays vendors, providing child care to CCMS referred children, a reimbursement rate based on the vendor's published rates and vendor fees approved by the Commission.

(b) The vendor's CCMS reimbursement rate is a daily rate. The rate is the lesser of the following:

(1) the vendor's published rate; or

(2) the 75th percentile of the local market rate.

(c) Local market rates in a geographic area in which a substantial number of child care providers charge a rate that is less than the actual cost of providing care in that area may be adjusted to reflect the actual cost of providing care.

(d) The vendors' published rates are subject to verification by the CCMS contractor or the Commission that these rates are not greater than:

(1) actual rates paid by parents who do not receive a child care subsidy; or

(2) the vendor's budgeted cost divided by the expected enrollment days.

(e) When the vendor publishes a new rate, a new CCMS reimbursement rate becomes effective the first full month after all the following steps have been completed by the vendor and the CCMS contractor:

(1) the vendor has informed the CCMS contractor of the new published rate;

(2) the CCMS contractor has determined the new CCMS reimbursement rate; and

(3) the CCMS contractor and vendor have signed a CCMS Vendor Agreement to reflect the new CCMS reimbursement rate.

(f) The CCMS contractor must not reimburse a vendor retroactively for new rates.

§809.107. Vendor Reimbursement for Transportation.

(a) The Child Care Management Services (CCMS) contractor reimburses vendors who offer transportation as provided in this subsection.

(1) If the CCMS vendor includes transportation in its published rate, the CCMS contractor pays the vendor that rate.

(2) If the CCMS vendor charges a separate rate for transportation, the CCMS contractor pays the transportation rate only for those CCMS-referred children receiving transportation services.

(b) The combined total of the vendor's published rate plus their transportation rate is subject to the 75th percentile as referenced in §809.106(b)(2) of this title (relating to Establishment of Individual CCMS Vendor Reimbursement Rates).

§809.108. Deduction of Parent Fees and Child Care Subsidies from Child Care Management Services (CCMS) Vendor Reimbursements.

The CCMS reimbursement to the vendor is adjusted as provided in this section.

(1) The CCMS reimbursement to the vendor is reduced by an amount equal to the parent fees assessed by the CCMS contractor according to §809.89 of this title (relating to Assessing Required Parent Fees).

(2) The CCMS reimbursement to the vendor is reduced by an amount equal to any child care subsidy received by the parent from other state or federal programs according to §809.89 of this title. The vendor reports the amount of the subsidies collected to the CCMS contractor.

(3) The CCMS reimbursement to the vendor is adjusted when parent fees are reduced.

(4) The CCMS reimbursement to the vendor is paid in full, if the vendor notifies the CCMS contractor:

(A) that a parent has not paid a parent fee as required by §809.45(d) of this title (relating to Collection of Assessed Parent Fees and Child Care Subsidies); and

(B) makes the notification within three days beginning the day the fees were due.

§809.109. Payment for Child Care Arranged by Parents.

(a) The Child Care Management Services (CCMS) contractor must authorize and issue payments as specified by the Commission to eligible parents who choose to arrange child care outside the CCMS system of vendors.

(b) The CCMS contractor must not pay parents for child care arranged outside of the CCMS system of vendors if the CCMS contractor discovers that the provider chosen is not eligible according to requirements listed in §809.41(d) of this title (relating to Self-Arranged Child Care).

§809.110. Basis of Payment for Child Care Management Services (CCMS) Contractor Operations Expense.

(a) The Commission uses a cost-based methodology as the basis of payment for the operating expenses of CCMS contractors. Under this method, there is a different budget and treatment for each major category of expense. The major expense categories for operations are direct staffing, direct staff fringe benefits, and other operating expense.

(b) The CCMS contractor and the Commission negotiate budgets for each of the major cost categories to form the basis of payment for the operating expenses of the CCMS contractor.

(c) The maximum reimbursed for a contract period is the lesser of the Commission's share of the total budgeted operations cost or actual, reasonable, allowable, properly allocated cost. Shifts between budget categories and line items are allowed subject to the terms of the contract and the Contractor Manual. At the end of each contract period, the CCMS contractor must reconcile payments from the Commission to actual, reasonable, allowable, properly allocated cost, subject to the overall limitation of the total amount budgeted for CCMS operations.

(d) Costs are determined to be reasonable, allowable, and properly allocated in accordance with Office of Management and Budget Circular A-21, A-87, and A-122, and other applicable federal and state statutes and regulations. There is no provision for profit in budgeting, payment, or reimbursement of CCMS operations expense.

(e) For direct staffing, the Commission pays the CCMS contractor on a budget-based cost reimbursement basis. Each month, the CCMS contractor bills the Commission for the actual, reasonable, allowable, properly allocated expense for direct staff performing CCMS operations functions. The cumulative amount paid for the contract period must not exceed the Commission's share of the direct staffing budgeted amount.

(f) For direct staff fringe benefits, the Commission pays the CCMS contractor on a budget-based rate basis. Each month, the CCMS contractor bills the Commission a set rate based on the actual CCMS salary and wage expense and/or the number of CCMS full-time equivalent positions. At the end of the contract period, the CCMS contractor reconciles actual, reasonable, allowable, properly allocated fringe benefit expense to billed fringe benefit expense. If the amount paid by the Commission was less than the actual, reasonable, allowable, properly allocated fringe benefits expense, the CCMS contractor is entitled to payment for the difference, up to the budget limit. If the actual, reasonable, allowable, properly allocated fringe benefits expense is less than the amount paid by the Commission, the CCMS contractor must refund the difference.

(g) For other CCMS operations expenses, such as occupancy, telephone, equipment, indirect, and miscellaneous, the Commission pays the CCMS contractor on a budget-based fixed-fee basis. The budget for these expenses is divided by the number of months in the contract period to determine a monthly fee to be billed by the CCMS contractor to the Commission each month during the contract period. At the end of the contract period, the CCMS contractor reconciles billed amounts to the actual, reasonable, allowable, properly allocated cost for the contract period. If the amount paid by the Commission is less than the actual, reasonable, allowable, properly allocated other CCMS operations expense, the CCMS contractor is entitled to payment for the difference, up to the budget limit. If the actual, reasonable, allowable, properly allocated other expense is less than the amount paid by the Commission, the CCMS contractor must refund the difference.

(h) All categories of CCMS operating expense are subject to billing on a cost reimbursement basis when the Commission determines that the CCMS contractor has over billed or failed to document expenses, or it would be in the best interest of the CCMS contractor or the Commission.

(i) The Commission may use cost reimbursement or a modified cost-based fixed fee basis of payment for the expense associated with special projects.

(j) The Commission may establish additional requirements and limits for budgeted costs and reimbursements to comply with federal limits on costs of specified staff, activities and/or functions.

§809.111. Billing by a Child Care Management Services (CCMS) Contractor.

(a) The CCMS contractor bills the Commission after child care services are provided and the contractor has received the required documentation from the vendors.

(b) The CCMS contractor must process and submit bills to the Commission in a timely and efficient manner but no later than 30 days after receiving the required documentation from the vendor. To exceed 30 days, the CCMS contractor must have extenuating circumstances and written approval from the Commission. The Commission is not liable and will not pay for bills submitted later than 90 days after the required documentation has been received from CCMS vendors. Non-payment by the Commission for late submittal does not relieve the CCMS contractor's liability to reimburse the CCMS vendor.

(c) The CCMS contractors must also submit statistical reports as required by federal or state regulations or by the Commission.

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

Issued in Austin, Texas, on June 11, 1997.

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Esther Hajdar

Deputy Director of Legal Services

Texas Workforce Commission

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 463-8812



Subchapter G. Program Monitoring and Compliance Requirements

40 TAC §§809.121-809.124

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.121. Monitoring Program Compliance.

The Child Care Management Services contractors and vendors must participate in evaluation and monitoring activities as specified by the Commission and federal funding sources.

§809.122. Audits of Child Care Management Services (CCMS) Contractors.

(a) All CCMS contractors are subject to audit or review by the Commission. The Commission may audit or review all relevant records or statistically sample records and project findings, including overpayments, based on that sample. The Commission may also audit cost or rate study data submitted by the CCMS contractor.

(b) CCMS contractors subject to the Single Audit Act must have an independent audit performed in compliance with either the Office of Management and Budget Circular A-128 or A-133. The audit must be approved by the cognizant agency for the CCMS contractor, with a copy provided by the CCMS contractor to the Commission for review by the Commission. The CCMS contractor may be reimbursed by the Commission for the CCMS share of audit expenses if funding is available, the audit is found to be acceptable upon review by Commission, and the audit and reimbursement request follow Commission policies and procedures specified in the CCMS Contractor Manual.

(c) Operations expense is subject to additional review as part of the CCMS contractor's organization-wide single audit or audit by the Commission or other authorized agencies, as determined and approved by the Commission.

§809.123. Responsibility of the Commission for Establishing Procedures for Quality Assurance (QA) Monitoring of Child Care Management Services (CCMS) Contractors and Recoupment Based on Quality Assurance Monitoring Findings.

(a) QA Monitoring. The Commission establishes procedures to monitor CCMS contractors. The Commission:

(1) establishes QA monitoring procedures using statistically valid sampling and extrapolation methodologies;

(2) selects a statistically valid random sample of the cases or claims for which the CCMS contractor received payment for the time under review and examines records for those cases or claims;

(3) establishes indicators of contractor performance; and

(4) establishes reasonable standards for performance indicators.

(b) Recoupment based on QA monitoring findings. The Commission establishes procedures to recoup administrative costs of CCMS contractors who fail to meet standards for selected performance indicators.

(1) The Commission establishes procedures to recoup administrative costs of CCMS contractors based on statistically valid sampling and extrapolation methodologies.

(2) The scope of the recoupment is limited to errors in the sample and the determination of amounts to be recouped are based on the CCMS contractors' administrative costs associated with the staff functions related to the QA monitoring findings as determined by statistically valid time studies. However, the Commission's recoupment of administrative costs related to QA monitoring findings is not the limit of CCMS contractor's liability. The errors in the sample may be extrapolated to the entire population in order to recover child care costs and/or additional costs of administration when:

(A) The Commission is found liable for QA monitoring findings by other regulatory agencies; or

(B) the scope and severity of the contractor's failure to perform warrants greater liability.

§809.124. *Quality Assurance (QA) Performance Indicators and Standards.*

(a) The Commission establishes the following QA performance indicators and standards for Child Care Management Services (CCMS) contractors.

(1) Accurate and timely determinations or re-determinations of client eligibility. The CCMS contractor must comply with a 95% standard for the performance indicator of accurate and timely determinations or re-determinations of client eligibility.

(2) Correct assessment of parent fees. The CCMS contractor must comply with a 95% standard for the performance indicator of correct assessment of parent fees.

(3) Appropriate documentation of client enrollment activities. The CCMS contractor must comply with a 95% standard for the performance indicator of appropriate documentation of client enrollment activities.

(4) Maintenance of valid vendor agreements. The CCMS contractor must comply with a 95% standard for the performance indicator of maintaining valid vendor agreements.

(5) Appropriate monitoring of vendors. The CCMS contractor must comply with a 95% standard for the performance indicator of appropriate monitoring of vendors.

(6) Appropriate documentation of vendor rates. The CCMS contractor must comply with a 95% standard for the performance indicator of appropriate documentation of vendor rates.

(b) The CCMS contractor's failure to perform within the standards specified in subsection (a)(1)-(6) of this section will result in the implementation of corrective action and/or recoupment.

(1) Corrective action. The CCMS contractor is required to implement corrective action for failure to perform within the standard for each performance indicator in subsection (a)(1)-(6) of this section. Additional corrective actions that may be imposed are specified in §809.141 of this title (relating to Contract Violations and Service Improvement Agreements).

(2) Recoupment. In addition to corrective action, the CCMS contractor may be subject to recoupment for failure to perform within the standard for accurate and timely determinations or re-determinations of client eligibility as specified in subsection (a)(1) of this section; and for failure to perform within the standard for maintenance of valid vendor agreements as specified in subsection (a)(4) of this section. Guidelines regarding recoupment methodology are specified in §809.149 of this title (relating to Recoupment Methodology for Administrative Costs Based on Quality Assurance (QA) Findings).

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

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Texas Workforce Commission

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Subchapter H. Corrective and Adverse Actions

40 TAC §§809.141-809.155

The new sections are proposed under Texas Labor Code, §301.061 and §302.021, which provides that the Texas Workforce Commission shall administer child care services provided in the Human Resources Code, Chapter 44 and will authorize the Commission to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act.

The proposed new sections affect Texas Human Resources Code, Chapter 44, Texas Labor Code, Chapter 302, and Texas Government Code, Chapter 2308.

§809.141. *Contract Violations and Service Improvement Agreements.*

(a) The Child Care Management Services (CCMS) contractor must comply with all terms of the contract, Commission rules, and the policies and procedures in the CCMS Contractor Manual.

(b) The Commission pursues resolution of contract violations in accordance with the terms of the contract and the CCMS Contractor Manual.

(c) The Commission may consider a non-compliance as a breach of the contract. Sanctions the Commission may take as a response to a contract breach include, but are not limited to:

(1) requiring the CCMS contractor to enter into a Service Improvement Agreement (SIA) as set forth in subsection (e) of this section;

(2) suspension, nonrenewal, or termination of the CCMS contract;

(3) temporarily withholding payments to the CCMS contractor;

(4) nonpayment of costs incurred; and/or

(5) recoupment of funds from the CCMS contractor.

(d) The determination of which sanction or sanctions is appropriate is based upon:

(1) the scope of the violation;

(2) the severity of the violation;

(3) the contractor's history of compliance; or

(4) the contractor's failure to meet performance standards referenced in §809.123 of this title (relating to Responsibility of the Commission for Establishing Procedures for Quality Assurance Monitoring of CCMS Contractors and Recoupment Based on Quality Assurance Monitoring Findings).

(e) When contract violations are documented, a written SIA may be negotiated. The SIA establishes at a minimum:

(1) the basis for the agreement;

(2) the steps required to reach compliance including technical assistance to be provided by the Commission;

(3) the time limits for implementing the improvements;

and

(4) the consequences of not complying with the agreement.

(f) A failure to fully comply with the terms of the SIA may result in the application of one or more of the sanctions set forth in subsection (c) of this section.

§809.142. Vendor Agreement Violations and Service Improvement Agreements (SIA).

(a) The vendor must comply with all terms of the Child Care Management Services (CCMS) Vendor Agreement, Commission rules, and the policies and procedures required in the CCMS Vendor Manual.

(b) The CCMS contractor must pursue resolution of agreement violations in accordance with the terms of the CCMS Contractor Manual, the CCMS Vendor Agreement, and the CCMS Vendor Manual.

(c) The CCMS contractor may consider acts of non-compliance as violations of the CCMS Vendor Agreement and the CCMS Vendor Manual. Sanctions the CCMS contractor may take as a response to violations of the agreement or manual include, but are not limited to:

- (1) suspension, nonrenewal, or termination of the vendor agreement;
- (2) temporary withholding of payments to the vendor for child care services delivered;
- (3) nonpayment of child care services delivered; and/or
- (4) recoupment of funds from the vendor.

(d) The determination of which sanction or sanctions is appropriate is based upon the number of non-compliances or the severity of the noncompliance or the vendor's compliance history.

(e) When vendor agreement violations are documented, a written SIA may be negotiated. The SIA establishes at a minimum:

- (1) the basis for the agreement;
- (2) the steps required to reach compliance including technical assistance to be provided by the CCMS contractor;
- (3) the time limit for implementing the improvements; and
- (4) the consequences of not complying with the agreement.

(f) A failure to fully comply with the terms of the SIA may result in the application of one or more of the sanctions set forth in subsection (c) of this section.

§809.143. Non-Compliance with Other State or Federal Programs.

(a) The Child Care Management Services (CCMS) contractor shall not enter into a vendor agreement with any child care provider if the provider or staff have been found to be in serious non-compliance with, seriously deficient by, or debarred from other State or Federal programs. The CCMS contractor shall terminate within 30 days a Vendor Agreement with any CCMS vendor whose facility or staff are found to be in serious non-compliance with, seriously deficient by, or debarred from other State or Federal programs. See §809.2 of this title (relating to Definitions).

(b) The Child Care Training contractor shall not enter into a contract with any trainer or training entity if the trainer, training entity, or staff have been found to be in serious non-compliance with, seriously deficient by, or debarred from other State or Federal programs.

(c) The Commission or its contractors shall not enter into a contract with an entity if that entity or staff have been found to be in serious non-compliance with, seriously deficient by, or debarred from other State or Federal programs.

(d) Commission contractors or subcontractors must obtain Commission concurrence regarding such actions as described in subsections (a)-(c) of this section.

§809.144. Vendors Violating Minimum Licensing Standards.

(a) Vendors must comply with applicable licensing standards.

(b) The Child Care Management Services (CCMS) contractor must follow Commission policies and procedures in the CCMS Contractor Manual to determine whether to:

- (1) close intake;
- (2) move CCMS-referred children to another vendor facility selected by the parent;
- (3) put vendor payments on hold; and/or
- (4) terminate, suspend, or not renew a Vendor Agreement if the Texas Department of Protective and Regulatory Services Child Care Licensing Division has cited a vendor for serious or continued noncompliance with the minimum licensing standards or placed the vendor on some form of corrective or adverse action.

§809.145. Attendance over Licensed Capacity.

The Commission will not pay for any child's enrollment on a day in which the attendance at the facility exceeds the state licensed capacity.

§809.146. Reapplication for Vendor Status after Termination or Nonrenewal of the Vendor Agreement.

(a) If a Vendor Agreement has not been renewed or has been terminated for violations with the Vendor Agreement, the Child Care Management Services (CCMS) Vendor Manual or minimum licensing standards, the child care provider will have to wait for up to six months after the termination date of the Vendor Agreement before reapplying.

(b) The reapplication period depends upon the reason for the termination or nonrenewal of the CCMS Vendor Agreement.

(c) The CCMS contractor must determine the reapplication period in accordance with Commission policies and procedures in the CCMS Contractor Manual.

(d) The child care provider must be informed at the time of the termination or nonrenewal of the Vendor Agreement when they may reapply for vendor status.

§809.147. Responsibilities of the Child Care Management Services (CCMS) Contractor for Recovery of Overpayment for Child Care Services.

(a) The CCMS contractor must attempt recovery of overpayment in cases involving parents, caretakers, vendors, or providers who have received or requested child care reimbursements.

(b) With Commission concurrence, the CCMS contractor will also attempt recovery of overpayment in cases involving fraud.

(c) Recovery of overpayment will be attempted for all overpayments. Further attempts for recovery of overpayments will occur when the overpayment amount equals or exceeds the costs of recovery.

(d) Recovery of overpayment must be managed in accordance with the Commission policies and procedures in the CCMS Contractor Manual.

§809.148. Recovery of Funds Paid to a Vendor or Parent.

(a) The vendor is subject to repayment of overpayments for child care services received in the following circumstances:

(1) cases involving fraud as defined in §809.152 of this title (relating to Provider or Vendor Fraud);

(2) instances when the vendor did not have a valid Vendor Agreement as defined in the terms of the Vendor Agreement;

(3) instances when the vendor was over the licensed capacity;

(4) instances when the vendor was paid for the child care services from another source;

(5) cases when the vendor did not deliver the child care services;

(6) cases when Child Care Management Services (CCMS) referred children have been moved from one facility to another without authorization from the CCMS contractor;

(7) cases when the vendor transferred the Vendor Agreement to any other entity, facility, or location without notifying the CCMS contractor and following other requirements in the CCMS Vendor Manual; or

(8) other cases when repayment is deemed an appropriate action.

(b) A parent is subject to repayment of overpayments for child care services in the following circumstances:

(1) cases involving fraud as defined in §809.151 of this title (relating to Parent or Caretaker Fraud);

(2) instances when the parent has received child care services while awaiting an appeal and the determination of the CCMS contractor is affirmed by the hearing officer;

(3) instances when the parent was not eligible to receive child care services; or

(4) other cases when repayment is deemed an appropriate action.

§809.149. Recoupment Methodology for Administrative Costs Based on Quality Assurance (QA) Findings.

(a) Child Care Management Services (CCMS) contractors are subject to recoupment when they fail to meet standards for the performance indicators specified in §809.124(a)(1) and (4) of this title (relating to Quality Assurance (QA) Performance Indicators and Standards). The Commission may recoup for administrative costs when the CCMS contractor's annual compliance rate is less than the 95% standard.

(b) The Commission uses the following methodology to determine the amount to be recouped for a compliance rate that is less than the 95% standard for accurate and timely determinations and re-determinations of client eligibility.

(1) The Commission determines the average cost per client for client services.

(2) The Commission determines the administrative costs of client services for clients in a CCMS contractor's QA monitoring sample, based on the number of clients in the CCMS contractor's QA monitoring sample and the average costs per client for client services.

(3) Based on the results of Commission monitoring of client eligibility determination and re-determination, if a CCMS contractor's compliance is:

(A) below the 95% standard but at or above 85%, the Commission recoups administrative costs in an amount equal to 1.5 times the percentage of noncompliance below 95% applied to the administrative costs of client services for clients in the QA monitoring sample; and

(B) below 85% of the standard, the Commission recoups administrative costs in an amount equal to the percentage of noncompliance below 100% applied to the administrative costs of client services for clients in the QA monitoring sample.

(c) The Commission uses the following methodology to determine the amount to be recouped for a compliance rate that is less than the 95% standard for maintenance of valid vendor agreements:

(1) the Commission determines the average cost per client for vendor services;

(2) the Commission determines the costs of vendor services for vendors in a CCMS contractor's QA monitoring sample, based on the number of vendors in the CCMS contractor's sample and the average costs per vendor for vendor services; and

(3) based on the results of Commission monitoring of maintenance of valid vendor agreements, if a CCMS contractor's compliance is:

(A) below the 95% standard but at or above 85%, Commission recoups administrative costs in an amount equal to 1.5 times the percentage of noncompliance below 95% applied to the administrative costs of vendor services for vendors in the monitoring sample; and

(B) below 85% of the standard, Commission recoups administrative costs in an amount equal to the percentage of non-compliance below 100% applied to the administrative costs of vendor services for vendors in the monitoring sample.

(d) If a CCMS contractor's compliance for accurate and timely determinations and re-determinations of client eligibility or maintenance of valid vendor agreements is below 85%, the Commission may recoup child care costs related to the errors in the sample in addition to recouping administrative costs. The Commission may also base recoupment on QA findings projected to the CCMS contractor's administrative and/or child care costs for all client services or all vendor services during the period of the QA monitoring sample.

§809.150. Responsibilities of the Child Care Management Services (CCMS) Contractor for Handling Suspected Fraud.

When a fraud case is suspected, the CCMS contractor must:

- (1) document in writing the reason for suspecting fraud;
- (2) refer the information to the Commission; and
- (3) with Commission concurrence, put a hold on further payments to the vendor, provider, parent, or caretaker.

§809.151. Parent or Caretaker Fraud.

The Commission considers a parent or caretaker may have committed fraud if the parent or caretaker presents or causes to be presented to the Child Care Management Services (CCMS) contractor either of the items indicated in this subsection.

(1) A parent or caretaker may have committed fraud if the parent or caretaker presents or causes to be presented to the CCMS contractor a claim for child care under the conditions indicated in this paragraph.

(A) Parent or caretaker fraud may occur when the client knows, or should know, that child care services were not provided as claimed.

(B) Parent or caretaker fraud may also occur when the client knows, or should know, that information is false or fraudulent.

(C) Parent or caretaker fraud may also occur when the client received child care services provided by a provider who the client knows, or should know; is not a regulated provider; is not 18 years of age; and is not one of the following relatives of the eligible child:

- (i) aunt,
- (ii) uncle,
- (iii) grandparent,
- (iv) great-grandparent, or

(v) sibling who is not living in the same household as the eligible child.

(D) Parent or caretaker fraud may also occur when the client received child care services during a period in which the client was not eligible for child care.

(2) A parent or caretaker may have committed fraud if the parent or caretaker presents or causes to be presented to the CCMS contractor a request for reimbursement that is in excess of the amount charged by the provider for the child care services.

§809.152. Provider or Vendor Fraud.

The Commission considers a provider or vendor may have committed fraud if the provider or vendor presents or causes to be presented to the Child Care Management Services (CCMS) contractor either of the items as described in paragraphs (1) or (2) of this subsection.

(1) A provider or vendor may commit fraud if the provider or vendor presents or causes to be presented to the CCMS contractor a claim for child care under the conditions in subparagraphs (A)-(C) of this paragraph.

(A) Provider or vendor fraud may occur when the provider or vendor knows, or should know, that child care services were not provided as claimed.

(B) Provider or vendor fraud may also occur when the provider or vendor knows, or should know, that information is false or fraudulent.

(C) Provider or vendor fraud may also occur when the provider or vendor knows, or should know, that child care services were provided by a person who is not a regulated provider; is not 18 years of age; and is not one of the following relatives of the eligible child:

- (i) aunt;
- (ii) uncle;
- (iii) grandparent;
- (iv) great grandparent; or
- (v) sibling who is not living in the same household

as the eligible child.

(2) A provider or vendor may commit fraud if the provider or vendor presents or causes to be presented to the CCMS contractor a request for reimbursement that is in excess of the amount charged by the provider to other parents for the child care services.

§809.153. Consequences of Parent, Caretaker, Provider, or Vendor Fraud.

(a) The Child Care Management Services (CCMS) contractor may take the following actions if a parent, caretaker, child care provider, or vendor are found to have committed fraud as described in §809.151 and §809.152 of this title (relating to Parent or Caretaker Fraud and Provider or Vendor Fraud):

- (1) suspension, nonrenewal, or termination of child care services or a CCMS vendor agreement;
- (2) temporary withholding of payments to the parent or vendor for child care services delivered;
- (3) nonpayment of child care services delivered; and/or
- (4) recoupment of funds from the parent or vendor.

(b) The CCMS contractor must obtain concurrence from the Commission before taking the actions outlined in subsection (a)(1)-(4) of this section.

§809.154. Provision of Child Care Services During an Appeal.

(a) Child care services continue during the appeal process until a decision is reached if the parent requests a hearing within the 12-day notification period, as noted in §809.75(3) of this title (relating to Rights of People Applying for Child Care Services Through the Child Care Management Services (CCMS) System). Child care services will not continue during the appeal process if the child's enrollment is denied, delayed, reduced, or terminated because of:

- (1) excessive absences;
- (2) voluntary withdrawal from child care services as stated in §809.86 of this title (relating to Termination of Enrollment Due to Excessive Absences);
- (3) change in federal or state laws or regulations;
- (4) lack of funding;
- (5) Clients participating in the Commission's Employment Program for Temporary Assistance to Needy Families (TANF) Recipients who are recommended for sanctioning; or

(6) voluntary withdrawal of a client from the Commission's Employment Program for TANF Recipients.

(b) The cost of providing services during the appeal process is subject to recovery from the parent by the CCMS contractor, if the appeal decision is against the client.

§809.155. *Local Reviews and Hearings.*

(a) A Child Care Management Services (CCMS) contractor or vendor against whom an adverse action, as defined in §§809.2, 809.141, 809.142, 809.144, or 809.146 of this title (relating to Definitions, Contract Violations and Service Improvement Agreements, Vendor Agreement Violations and Service Improvement Agreements, Vendors Violating Minimum Licensing Standards, and Reapplication for Vendor Status After Termination or Non-renewal of the Vendor Agreement), is taken, may request a local review of the adverse action. A CCMS contractor or vendor who is dissatisfied with the outcome of a local review may request a hearing appealing the results of the local review.

(b) A CCMS contractor or vendor must request a local review in writing and deliver the request to the Commission Contract Management or Board staff. A request for a local review must be filed within 15 calendar days of the date of the Commission, Board, or CCMS contractor staff's written notification of the adverse action and must contain a concise statement of the disputed adverse action, a recommended resolution, and any supporting documentation the CCMS contractor or vendor deems relevant to the dispute.

(1) On receipt of a request for local review, the Commission Contract Manager or Board coordinates a review by appropriate Commission or Board staff. Additional information may be requested from the CCMS contractor or vendor and must be provided within 15 calendar days of the request for additional information.

(2) Within 30 calendar days of the date the request for local review is received or the date additional requested information is received by the Commission or the Board, the Commission or the Board staff member conducting the local review must send the CCMS contractor or vendor written notification of the results of the review.

(c) A CCMS contractor or vendor who disagrees with the results of a local review conducted under subsection (b) of this section may file an appeal of the review and request a hearing. The CCMS vendor or contractor must file a written request for a hearing with the Appeals Department, Texas Workforce Commission, 101 East 15th Street, Room 410; Austin, Texas 78778-0001, within 15 calendar days after receiving written notification of the results of the local review. The hearing is limited to the issues and the information submitted by the provider that were considered in the local review process. The Commission conducts formal appeals in accordance with the provisions of Chapter 823 of this title (relating to Hearings).

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707584

Esther Hajdar

Deputy Director of Legal Services

Texas Workforce Commission

Earliest possible date of adoption: July 21, 1997

For further information, please call: (512) 463-8812



ADOPTED RULES

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

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 15. Egg Law

4 TAC §15.7

The Texas Department of Agriculture (the department) adopts an amendment to §15.7, concerning Texas Egg Law, without changes to the proposed text as published in the April 29, 1997, issue of the *Texas Register* (22 TexReg 3767). The amendment is adopted effective September 1, 1997, without changes and will not be republished.

The amendment is adopted to require that shell eggs be stored at a temperature of 45 degrees Fahrenheit.

The Texas Poultry Federation commented generally in favor of the amendment.

The amendment is adopted under the Texas Agriculture Code, §132.003, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary to administer the Texas Agriculture Code, Chapter 132.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707534

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: September 1, 1997

Proposal publication date: April 29, 1997

For further information, please call: (512) 463-7583



Chapter 18. Organic Standards and Certification

The Texas Department of Agriculture (the department), adopts the repeal of §18.5 and new §18.5, concerning fees without changes to the proposed text published in the May 9, 1997, issue of the *Texas Register* (22 TexReg 4045). The repeal is adopted to allow the department to replace §18.5 with new §18.5. New §18.5 is adopted to clarify language, make fees more applicable to the type of inspection, and provide the ap-

propriate structure to be compatible for an automated licensing system. New §18.5 establishes procedures for payment of fees and schedule of fees for producers, processors, distributors, retailers and organic certifying agents and for late filing of renewal applications.

No comments were received regarding adoption of the repeal or new section.

4 TAC §18.5

The repeal is adopted under the Texas Agriculture Code, §18.002, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for administration of the Code, Chapter 18.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707535

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: June 30, 1997

Proposal publication date: May 9, 1997

For further information, please call: (512) 463-7583



The new section is adopted under the Texas Agriculture Code, §18.002, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for administration of the Code, Chapter 18; and §18.006, which provides the department with the authority to charge an annual fee for certification under Chapter 18.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707536

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: June 30, 1997

Proposal publication date: May 9, 1997

For further information, please call: (512) 463-7583

◆ ◆ ◆
TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects

Subchapter A. Scope; Definitions

22 TAC §1.5

The Texas Board of Architectural Examiners adopts an amendment to §1.5, concerning Terms Defined Herein without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2953). The text will not be republished.

This amendment is being adopted to add definitions for commonly used phrases.

The adoption of this amendment will result in a clarification of the rules.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707541

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535

◆ ◆ ◆
22 TAC §1.16

The Texas Board of Architectural Examiners adopts an amendment to §1.16, concerning Official Records without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2953). The text will not be republished.

This amendment is being adopted to omit a reference to a chapter that has been repealed and to correct the title of a referenced subchapter.

The adoption of this amendment will result in the clarification of the existing rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707542

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535

◆ ◆ ◆
Subchapter B. Registration

22 TAC §1.21

The Texas Board of Architectural Examiners adopts an amendment to §1.21, concerning Eligibility without changes to the text as published in the March 11, 1997, issue of the *Texas Register* (22 TexReg 2564). The text will not be republished.

This amendment is being adopted to obtain the social security number of applicants as required by §231.302 of the Texas Family Code.

The adoption of this amendment will result in the ability to identify and withhold professional licenses from applicants who are not conforming to Texas laws pertaining to child support payments.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707543

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535

◆ ◆ ◆
22 TAC §1.25

The Texas Board of Architectural Examiners adopts an amendment to §1.25, concerning Processing without changes to the

text as published in the March 21, 1997 issue of the *Texas Register* (22 TexReg 2954). The text will not be republished.

This amendment is being adopted to insert a sentence accidentally omitted from the earlier version.

The adoption of this amendment will result in the collection of complete and accurate information for board records.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707544

Cathy L. Hendricks, ASID/IIDA
Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Subchapter E. Fees

22 TAC §1.88

The Texas Board of Architectural Examiners adopts an amendment to §1.88, concerning Emeritus Fee without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2954). The text will not be republished.

This amendment is being adopted to clarify the term "emeritus status."

The adoption of this amendment will result in a more uniform application of the rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707545

Cathy L. Hendricks, ASID/IIDA
Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Subchapter I. Charges Against Architects: Action

22 TAC §1.161

The Texas Board of Architectural Examiners adopts an amendment to §1.161, concerning Disciplinary Action without changes to the text as published in the March 21, 1997 issue of the *Texas Register* (22 TexReg 2955). The text will not be republished.

This amendment is being adopted to correct a Subchapter number referenced in the rule.

The adoption of this amendment will result in a clarification of the existing rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249a which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707546

Cathy L. Hendricks, ASID/IIDA
Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Chapter 3. Landscape Architects

Subchapter A. Scope; Definitions

22 TAC §3.5

The Texas Board of Architectural Examiners adopts an amendment to §3.5, concerning Terms Defined Herein with changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2955).

This amendment is being adopted to add definitions for commonly used phrases.

The adoption of this amendment will result in a clarification of the rules.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249c which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.5. *Terms Defined Herein.*

The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

DIRECT SUPERVISION: That degree of supervision by a person overseeing the work of another whereby the supervisor and the individual being supervised work in close proximity to one another and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.

EMERITUS STATUS: An honorary title that allows a retired landscape architect who no longer wishes to actively practice landscape architecture to retain his or her professional title but does not confer the right to practice as a registered professional.

RESPONSIBLE CHARGE: That degree of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered landscape architects applying the required professional standard of care.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707547

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Subchapter B. Registration

22 TAC §3.21

The Texas Board of Architectural Examiners adopts an amendment to §3.21, concerning Eligibility without changes to the text as published in the March 11, 1997, issue of the *Texas Register* (22 TexReg 2565). The text will not be republished.

This amendment is being adopted to obtain the social security number of applicants as required by §231.302 of the Texas Family Code.

The adoption of this amendment will result in the ability to identify and withhold professional licenses from applicants who are not conforming to Texas laws pertaining to child support payments.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249c which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707548

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Subchapter E. Fees

22 TAC §3.88

The Texas Board of Architectural Examiners adopts an amendment to §3.88, concerning Emeritus Fee without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2956). The text will not be republished.

This amendment is being adopted to clarify the term "emeritus status."

The adoption of this amendment will result in a more uniform application of the rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249c which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707549

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Chapter 5. Interior Designers

Subchapter A. Scope; Definitions

22 TAC §5.5

The Texas Board of Architectural Examiners adopts an amendment to §5.5 Terms Defined Herein with changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2956).

This amendment is being adopted to add definitions for commonly used phrases.

The adoption of this amendment will result in a clarification of the rules.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249e which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.5. Terms Defined Herein.

The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

DIRECT SUPERVISION:That degree of supervision by a person overseeing the work of another whereby the supervisor and the individual being supervised work in close proximity to one another and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.

EMERITUS STATUS:An honorary title that allows a retired interior designer who no longer wishes to actively practice interior design to retain his or her professional title but does not confer the right to practice as a registered professional.

RESPONSIBLE CHARGE:That degree of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered interior designers applying the required professional standard of care.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707550

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



Subchapter B. Registration

22 TAC §5.31

The Texas Board of Architectural Examiners adopts an amendment to §5.31, concerning Eligibility without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2957). The text will not be republished.

This amendment is being adopted to obtain the social security number of applicants as required by §231.302 of the Texas Family Code and to specify a closing date for applications for interior designer registration without examination.

The adoption of this amendment will result in the ability to identify and withhold professional licenses from applicants who are not conforming to Texas laws pertaining to child support payments and the establishment of a deadline for fulfilling the requirements for interior designer registration without examination.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249e which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.31. Eligibility.

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

(d) An applicant for registration without examination under the provisions of paragraph (2) of subsection (a) of this section who fails to complete the required six or more years of experience on or before September 1, 2003, will be ineligible for registration without examination.

(e) Pursuant to the provisions of §231.302 of the Texas Family Code, each applicant shall submit his or her social security number on forms prescribed by the board. Such information shall be considered confidential as stated in §231.302(e) of the Texas Family Code

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707551

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Effective date: June 30, 1997

Proposal publication date: March 21, 1997

For further information, please call: (512) 305-8535



22 TAC §5.38

The Texas Board of Architectural Examiners adopts an amendment to §5.38, concerning Reciprocal Transfer without changes to the text as published in the March 11, 1997, issue of the *Texas Register* (22 TexReg 2566). The text will not be republished.

This amendment is being adopted to clarify the term "substantially equivalent" as used in the rule.

The adoption of this amendment will result in a better understanding and enforcement of the rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249e which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707552

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners
Effective date: June 30, 1997
Proposal publication date: March 21, 1997
For further information, please call: (512) 305-8535



Subchapter E. Fees.

22 TAC §5.99

The Texas Board of Architectural Examiners adopts an amendment to §5.99, concerning Emeritus Fee without changes to the text as published in the March 21, 1997, issue of the *Texas Register* (22 TexReg 2957). The text will not be republished.

This amendment is being adopted to clarify the term "emeritus status."

The adoption of this amendment will result in a more uniform application of the rule.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Vernon's Texas Civil Statutes, Article 249e which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707553

Cathy L. Hendricks, ASID/IIDA
Executive Director

Texas Board of Architectural Examiners
Effective date: June 30, 1997
Proposal publication date: March 21, 1997
For further information, please call: (512) 305-8535



Part XV. Texas State Board of Pharmacy

Chapter 283. Licensing Requirements for Pharmacists

22 TAC§283.4, §283.5

The Texas State Board of Pharmacy adopts amendments to §283.4 and §283.5, concerning Internship Requirements and Pharmacist-Intern Duties, without changes to the proposed text as published in the April 1, 1997, *Texas Register* (22 TexReg 3200). These amendments will allow pharmacists licensed in a state other than Texas to supervise pharmacist-interns when the pharmacist is working in a federal facility and serving as an instructor for a Texas college-based internship program.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, §4 which specifies

that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; §16(a) which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; §17(a)(3) which gives the Board the authority to establish requirements for practical training, including internship; §21(f) which requires an applicant for licensure by examination to obtain practical experience under conditions determined by the Board; and §21(g) which requires the Board to establish standards for internship and qualifications for preceptor.

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

Issued in Austin, Texas, on June 9, 1997.

TRD-9707454

Fred S. Brinkley, Jr., R.Ph, M.B.A.
Executive Director

Texas State Board of Pharmacy
Effective date: June 30, 1997
Proposal publication date: April 1, 1997
For further information, please call: (512) 305-8028



22 TAC §283.7, §283.9

The Texas State Board of Pharmacy adopts amendments to §283.7 and §283.9, concerning Examination Requirements and Fee Requirements for Licensure by Examination and Reciprocity, without changes to the proposed text as published in the January 17, 1997, issue of the *Texas Register* (22 TexReg 821).

These amendments specify the method of payment of Examination and Reciprocity fees; refund policies of the agency; procedures to score transfer a NAPLEX score to other states; and the application deadlines for NAPLEX and Reciprocity Candidates.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, §16(a) which gives the Board the authority to adopt rules for proper administration and enforcement of the Act; §30 which specifies that the Board shall establish reasonable and necessary fees so that fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act; and §21 which specifies the qualifications for licensing by examination.

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

Issued in Austin, Texas, on June 9, 1997.

TRD-9707453

Fred S. Brinkley, Jr., R.Ph, M.B.A.
Executive Director

Texas State Board of Pharmacy
Effective date: June 30, 1997
Proposal publication date: January 17, 1997

For further information, please call: (512) 305-8028



Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

General Provisions

22 TAC §501.2

The Texas State Board of Public Accountancy adopts an amendment to §501.2, concerning Definitions, without changes to the proposed text as published in the April 25, 1997, issue of the *Texas Register* (22 TexReg 3697).

The amendment allows for a clearer understanding that a contingent fee arrangement might impair a CPA's independence and specifically includes litigation support services to the definition of accounting.

The amendment will function by having improved definitions of contingent fees and the client practice of accountancy.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707475

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: April 25, 1997

For further information, please call: (512) 505-5566



Professional Practices

22 TAC §501.11

The Texas State Board of Public Accountancy adopts an amendment to §501.11, concerning Independence, without changes to the proposed text as published in the April 25, 1997, issue of the *Texas Register* (22 TexReg 3697).

The amendment allows for a clearer understanding that a contingent fee arrangement might impair a CPA's independence.

The amendment will function by directing CPAs and other readers to §501.15 of this title (relating to Services for Fees).

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy

with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707476

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: April 25, 1997

For further information, please call: (512) 505-5566



22 TAC §501.15

The Texas State Board of Public Accountancy adopts new §501.15, concerning Services for Fees, without changes to the proposed text as published in the April 25, 1997, issue of the *Texas Register* (22 TexReg 3698).

The new rule allows for a clearer understanding of those areas of accounting where contingent fees are allowed.

The new rule will function by listing those areas of accounting where contingent fees arrangements are prohibited and by listing an area where contingent fees are allowed.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707477

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: April 25, 1997

For further information, please call: (512) 505-5566



Chapter 511. Certification as CPA

Education Requirements

22 TAC §511.56

The Texas State Board of Public Accountancy adopts new §511.56, concerning Qualifications under the 1991 Act, without changes to the proposed text as published in the April 25, 1997, issue of the *Texas Register* (22 TexReg 3699).

The new rule allows those persons who qualified to sit for the uniform CPA examination to maintain their eligibility.

The new rule will function by placing into the Rules the qualification requirements of the 1991 Act for the benefit of those persons who qualified under the 1991 Act by allowing them to maintain their eligibility when the Act is updated and amended.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707479

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: April 25, 1997

For further information, please call: (512) 505-5566



22 TAC §511.61

The Texas State Board of Public Accountancy adopts new §511.61, concerning Implementation of the 150 Semester Hours or Quarter-hour Equivalents Requirement, without changes to the proposed text as published in the April 25, 1997, issue of the *Texas Register* (22 TexReg 3699).

The new rule allows applicants who will sit for the May 1988 to November 1999 examinations to be excused from satisfying the 150 semester-hour requirement.

The new rule will function by creating a grace period during which applicants will not have to satisfy the 150 semester-hour requirement.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707483

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: April 25, 1997

For further information, please call: (512) 505-5566



22 TAC §511.92

The Texas State Board of Public Accountancy adopts new §511.92, concerning Definitions, without changes to the proposed text as published in the February 28, 1997, issue of the *Texas Register* (22 TexReg 2326).

The new rule implements of the Americans with Disabilities Act. The new rule will comply with the American with Disabilities Act.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41aA1, §6, which provides the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law and is required by the Americans with Disabilities Act.

This agency hereby certifies that the adoption 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 29, 1997.

TRD-9707485

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: June 30, 1997

Proposal publication date: February 28, 1997

For further information, please call: (512) 505-5566



TITLE 28. INSURANCE

Part III. Texas Certified Self-Insurer Guaranty Association

Chapter 181. By-laws

28 TAC §181.1

The Texas Certified Self-Insurer Guaranty Association adopts an amendment to §181.1, concerning the By-laws of the Association, without changes to the proposed text as published in the December 13, 1996, issue of the *Texas Register* (21 TexReg 11937).

This amendment clarifies that the earned income of the Texas Self-Insurance Guaranty Trust Fund may be used for the purpose of administration of the Trust Fund. The amendment is necessary to assure that there is no ambiguity about the use of earned income for administration of the Trust Fund.

The amendment will clarify the original intention to allow earned income of the Texas Self-Insurance Guaranty Trust Fund to be used for the purpose of administration of the Trust Fund.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Labor Code, Chapter 407, Subchapter G, §407.123, which authorizes the Board of Directors of the Association, subject to the approval of the Texas Workers' Compensation Commission, to adopt rules necessary to operate the Association.

These amendments were finally adopted by the Board of Directors of the Association on November 11, 1996, and approved by the Texas Workers' Compensation Commission on May 8, 1997. After adoption by the Board, the amendments were ratified by a majority vote of the members of the Association by mail-in ballot.

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

Issued in Austin, Texas, on June 10, 1997.

TRD-9707524

Judy Roach

Executive Director

Texas Certified Self-Insurer Guaranty Association

Effective date: June 30, 1997

Proposal publication date: December 13, 1996

For further information, please call: (512) 322-2514



TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

PROPOSED ACTION

The Commissioner of Insurance, at a public hearing under Docket Number 2296 scheduled for July 24, 1997 at 9:00 a.m., in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a Staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt amendments to Rule 41 to change the premium charge for attachment of appropriate Financial Responsibility Certification endorsements, and to reword those endorsements (571 and TE 99 82A). Staff's petition (Reference Number A-0697-18-I) was filed on June 11, 1997.

Staff proposes to amend Manual Rule 41 to change the premium charge for attachment of appropriate Financial Responsibility Certification endorsements to a flat \$50 charge, as well as to reword those endorsements (571 and TE 99 82A, to be redesignated as 571A and TE 99 82B, respectively). The \$50 amount would replace the current charge, which consists of 10% of the basic limits bodily injury and property damage liability premium that would be paid by the insured for whom the certificate is filed.

Under the Texas Motor Vehicle Safety Responsibility Act, the Department of Public Safety (DPS) under some circumstances must require a vehicle operator to provide "evidence of financial responsibility." This may be done by filing with DPS the certificate of an insurance company certifying that an auto liability insurance policy is in effect for the benefit of that operator. Such a certificate is called an SR-22, which is referenced in Manual Endorsements 571 and TE 99 82A. Each endorsement provides for an additional premium charge and sets forth the insurer's obligation to give prior written notice to DPS before cancellation or termination of the policy.

When Rule 41 was adopted to allow recovery of administrative costs, basic premiums were much lower, and charges for attachment of Financial Responsibility Certification endorsements were also much lower, as the latter charges were (and are) based upon the former. As basic premiums have risen sharply, so have the charges for attachments of these endorsements, although based on Staff's analysis, no more work is involved in such attachment than initially. Furthermore, the majority of SR-22 filings are processed and filed by

the Texas Automobile Insurance Plan Association, not the assigned insurer. The direct cost to the assigned insurer, in such cases, is limited to the filing of policy cancellation notice.

When an insurer files an SR-22 for an insured, the appropriate endorsement is issued, and an additional premium charge is made, being "10% of basic limits bodily injury and property damage liability total policy premium...."

Examples in Staff's petition show how a policyholder can be severely affected by the provisions of Rule 41, although administrative costs for the insurance company apparently do not vary for attachment of such an endorsement for any affected driver. Staff's opinion is that a flat \$50 charge per driver should be adequate reimbursement of an insurer's administrative expenses for certification with DPS, and attachment of the appropriate endorsement.

Staff proposes that Rule 41 be amended accordingly, and that Endorsements 571 and TE 99 82A also be amended to reflect this change. The amendment of those endorsements would consist partially of eliminating references to Bodily Injury Liability and Property Damage Liability, as the premiums for those coverages would no longer be relevant. In order to avoid the possible need for amending these endorsements in the future because of inflation, Staff recommends leaving a blank space in each endorsement for the charge to be made.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0697-18-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on June 13, 1997.

TRD-9707792

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: June 13, 1997

The Commissioner of Insurance, at a public hearing under Docket Number 2297 scheduled for July 24, 1997 at 9:00 a.m. in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt new and/or adjusted 1995-1998 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0697-19-I) was filed on June 11, 1997.

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the listed 1995-1998 model vehicles.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the

Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0697-19-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on June 13, 1997.

TRD-9707789

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: June 13, 1997

TABLES & GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1: 40 TAC §809.1-809.155 - Preamble

The following chart shows the conversion from the old sections to the new sections. Note that sections 809.21, 809.40, 809.54, 809.56, 809.59 and 809.66 have already been repealed.

Old Section Number	New Section Number	Title (Please note-some titles have been amended.)
n/a	809.1	Short Title and Purpose
n/a	809.2	Definitions
n/a	809.3	Board Planning, Oversight and Evaluation of Child Care Services
n/a	809.4	Board Procedures for Developing Additional Requirements for Child Care Services
n/a	809.32	Child Care Training
n/a	809.77	Return of Eligibility Documents From Parents or Caretakers
n/a	809.78	Parent Responsibility Agreement
n/a	809.143	Non-Compliance with Other State or Federal Programs
n/a	809.148	Recovery of Funds Paid to a Vendor or Parent
n/a	809.153	Consequences of Parent, Caretaker, Provider or Vendor Fraud
809.2	809.21	Child Care Management Services (CCMS) Contractor
809.3	809.29	Child Care Management Services (CCMS) Child Care Advisory Council
809.4	809.24	Funding for Child Care Management Services (CCMS) Contractors
809.5	809.25	Assessing Needs and Resources
809.6	809.31	Requirements for Child Care Management Services (CCMS) Subcontracts
809.7	809.26	Child Care Management Services (CCMS) Contractor's Recruitment of Vendors
809.8	809.27	Child Care Management Services (CCMS) Contractor's Provision of Training and Technical Assistance to Vendors
809.9	809.22	Child Care Management Services (CCMS) Staff Requirements
809.11	809.81	Intake
809.12	809.61	Basic Requirements for Families to Obtain Child Care Services
809.13	809.65	Eligibility Criteria for Commission Funded Child Care Services
809.14	809.69	Exceptions to Eligibility
809.15	809.83	Waiting Lists
809.16	809.64	Child Care for Abused and Neglected Children
809.17	809.62	Evaluation of a Parent's Need for Child Care
809.18	809.72	Child Care During Employment, Education, or Training Interruptions
809.19	809.71	JOBS Child Care While Waiting to Enter an Approved Initial JOBS Component
809.20	809.70	JOBS Child Care During On-the-Job Training (OJT)
809.22	809.74	Sanctions and Penalties
809.23	809.73	Time Limits for Education or Training-Related Child Care
809.24	809.89	Assessing Required Parent Fees
809.25	809.90	Reduction of Assessed Parent Fees
809.26	809.104	Vendor Payment Based on Child Care Enrollment
809.27	809.92	Inclusion Plan Requirements for Children with Disabilities
809.28	809.46	Attendance Requirements
809.29	809.86	Termination of Enrollment Due to Excessive Absences
809.30	809.121	Monitoring Program Compliance
809.31	809.141	Contract Violations and Service Improvement Agreements
809.32	809.122	Audits of Child Care Management Services (CCMS) Contractors
809.33	809.110	Basis of Payment for Child Care Management Services (CCMS) Contractor Operations Expense
809.34	809.111	Billing by a Child Care Management Services (CCMS) Contractor
809.35	809.88	Client Registration
809.36	808.28	Required Forms
809.37	809.103	Units of Service in Child Care
809.38	809.105	Establishment of Maximum Reimbursement Rates
809.39	809.106	Establishment of Individual Child Care Management Services (CCMS) Vendor Reimbursement Rates

Figure 1: 40 TAC §809.1-809.155 (continued)

Old Section Number	New Section Number	Title (Please note-some titles have been amended.)
809.41	809.107	Vendor Reimbursement for Transportation
809.42	809.102	Vendor Billing Requirements
809.43	809.45	Vendor Collection of Assessed Parent Fees and Child Care Subsidies
809.44	809.91	Parent Payments of Assessed Parent Fees and Child Care Subsidies
809.45	809.42	Vendor Requirements
809.46	809.48	Commission Voluntary Program Criteria for Child Care Providers
809.47	809.43	Child Care Management Services (CCMS) Vendor Agreements and Vendor Manuals
809.48	809.145	Attendance Over Licensed Capacity
809.49	809.142	Vendor Agreement Violations and Service Improvement Agreements
809.50	809.144	Vendors Violating Minimum Licensing Standards
809.51	809.44	Amendments and Renewal of Vendor Agreements
809.52	809.47	Parent Advisory Groups
809.53	809.109	Parent Payments for Self-Arranged Care
809.55	809.33	Waiver Requests
809.58	809.101	Child Care Management Services (CCMS) Vendor Payments
809.60	809.84	Verification and Determination of Client Eligibility for Child Care Services
809.61	809.87	Authorization of Child Care Services
809.62	809.82	Priority for Intake Services
809.65	809.41	Self-Arranged Child Care
809.67	809.75	Rights of People Applying for and Receiving Child Care Services Through the Child Care Management Services (CCMS) System
809.68	809.76	Responsibilities of People Applying for and Receiving Child Care Services Through the Child Care Management Services (CCMS) System
809.69	809.67	Income Limits for Child Care Services
809.70	809.85	Redetermination of Eligibility for Child Care Services
809.71	809.154	Provision of Child Care Services During an Appeal
809.72	809.151	Parent or Caretaker Fraud
809.73	809.152	Provider or Vendor Fraud
809.74	809.146	Reapplication for Vendor Status After Termination or Nonrenewal of the Vendor Agreement
809.75	809.123	Responsibility of the Commission for Establishing Procedures for Quality Assurance (QA) Monitoring of Child Care Management Services (CCMS) Contractors and Recoupments Based on Quality Assurance Monitoring Findings
809.76	809.30	Special Projects
809.77	809.147	Responsibilities of the Child Care Management Services (CCMS) Contractor for Recovery of Overpayment for Child Care Services
809.78	809.150	Responsibilities of the Child Care Management Services (CCMS) Contractor for Handling Suspected Fraud
809.81	809.108	Deduction of Parent Fees and Child Care Subsidies from Child Care Management Services (CCMS) Vendor Reimbursements
809.82	809.23	Administrative Requirements for Child Care Services
809.83	809.63	Citizenship and Residency Requirements to Receive Child Care Services
809.84	809.68	Income Inclusions for Child Care Eligibility Determination
809.85	809.124	Quality Assurance (QA) Performance Indicators and Standards
809.86	809.149	Recoupment Methodology for Administrative Costs Based on Quality Assurance (QA) Findings
809.87	809.155	Local Reviews and Hearings
809.88	809.66	Additional Transitional Child Care Eligibility Criteria

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 before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities listed 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. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

State Office of Administrative Hearings

Friday, June 27, 1997, 10:00 a.m.

1700 North Congress Avenue

Austin

Utility Division

AGENDA:

A Prehearing Conference is scheduled for the above date and time in SOAH Docket Number 473-97-1115- Application of SOUTH-WESTERN BELL TELEPHONE COMPANY for Approval of Point to Point Optional Calling Plan (OCP) in its Long Distance Message Telecommunications Service Tariff, Section 3, (PUC Docket Number 17146).

Contact: William G. Newchurch, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: June 11, 1997, 3:46 p.m.

TRD-9707617



Texas Department of Agriculture

Monday, June 23, 1997, 10:00 a.m.

3103 Oldham Lane

Abilene

Texas Boll Weevil Eradication Program Technical Advisory Committee

AGENDA:

Public Meeting, Dr. Ray Frisbie, Chairman, Presiding; To consider and take possible action on Eradication Update in the Existing Zones of Osama El-Lissy and to consider and take possible action on Eradication Plan for the High Plains, Plains Cotton Growers Program Zones.

Contact: Katie Dickie, P.O. Box 12847, Austin, Texas 78711, (512) 463-7593.

Filed: June 13, 1997, 2:40 p.m.

TRD-9707756



Texas Alcoholic Beverage Commission

Monday, June 23, 1997, 1:30 p.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

1:30 p.m.- Call to order.

Convene in open meeting.

Announcement of executive session.

1. Executive Session: a. Briefing regarding operations of a general counsel's office.

Continue Open meeting

2. Take action, including a vote, if appropriate, on topics listed for discussion under executive session.

3. Approval of minutes of April 28, 1997 meeting; discussion, comment, possible vote.

4. Administrator's report.

5. Resolution authorizing participation in the Texas Public Finance Authority; discussion, comment, possible vote.

6. Public comment.

7. Adjourn.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: June 13, 1997, 8:11 a.m.

TRD-9707678



Texas Commission on Alcohol and Drug Abuse (TCADA)

Friday, June 20, 1997, 11:30 a.m.

Highway 231 South, (Box 13) Delicias Restaurant

Rachal

Regional Advisory Consortium, Region 11

AGENDA:

Call to order; welcome and introductions of guests; approval of minutes; committee report on the regional allocation formula for female services; committee report on the development of service priorities for female services; old business; new business; public comment; and adjourn.

Contact: Heather Harris, 9001 North IH35, Suite 105, Austin, Texas 78753, (512) 349-6669, or (800) 832-9623, extension 6669.

Filed: June 11, 1997, 2:15 p.m.

TRD-9707609



Automobile Theft Prevention Authority

Friday, June 20, 1997, 10:30 a.m.

200 East Riverside, Conference Room 102

Austin

Board

AGENDA:

I. Call to Order and Introductions

II. Proposed ATPA Rules Relating to the Review and Approval of Grant Projects, 43 TAC §§57.2, 57.7, and 57.14 (amending 1 TAC 4.2, 4.7, 4.14 (May 20, 1997, 22 Tex Reg 4354).

III. Request for Supplemental Funds from Denton County Auto Theft Task Force.

IV. Adjourn.

Contact: Agustin (Gus) DeLa Rosa, 150 East Riverside Drive, Austin, Texas, 78704, (512) 416-4605.

Filed: June 12, 1997, 3:49 p.m.

TRD-9707658



Texas State Board of Examiners of Professional Counselors

Friday, June 27, 1997, 8:00 a.m.

Omni Marina Hotel, Riviera 5 Meeting Room, 707 North Shoreline Boulevard

Corpus Christi

Administration and Finance Committee

AGENDA:

The committee will discuss and possibly act on: review of board office operations including policies, procedures, and personnel (exec-

utive secretary's report); and finances (financial report, requests for conference attendance, anticipated expenditures for fiscal year 1998, including roster, rules, newsletters, etc. and fee recommendations).

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:43 a.m.

TRD-9707816



Friday, June 27, 1997, 9:30 a.m.

Omni Marina Hotel, Riviera 5 Meeting Room, 707 North Shoreline Boulevard

Corpus Christi

Testing and Continuing Education Committee

AGENDA:

The committee will discuss and possibly act on: consideration of a request from Paulina P. Zambrano concerning the examination; a report from the April 25, 1997, Ad Hoc Testing Committee; and appointments to the Ad Hoc Testing Committee.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:43 a.m.

TRD-9707817



Friday, June 27, 1997, 10:30 a.m.

Omni Marina Hotel, Riviera 5 Meeting Room, 707 North Shoreline Boulevard

Corpus Christi

Public and Professional Relations Committee

AGENDA:

The committee will discuss and possibly act on: approval of the September issue of the newsletter; and topics for the April 1998, newsletter.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:44 a.m.

TRD-9707818



Friday, June 27, 1997, 12:30 p.m.

Omni Marina Hotel, Riviera 5 Meeting Room , 707 North Shoreline Boulevard

Corpus Christi

Rules Committee

AGENDA:

The committee will discuss and possibly act on: comments concerning and recommendation for final adoption of proposed amendments to 22 Texas Administrative Code, Chapter 681, published in the May 20, 1997, *Texas Register*, 22 TexReg 4341; letter from Dick Ancell requesting consideration of rule change; request from David Dickson on feedback concerning "listening earline"; petitions for rule change submitted by Wanda Kirklen and Susan Roller; and proposed amendments to 22 Texas Administrative Code, Chapter 681, including legislative changes.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:44 a.m.

TRD-9707821



Friday, June 27, 1997, 2:30 p.m.

Omni Marina Hotel, Riviera 5 Meeting Room , 707 North Shoreline Boulevard

Corpus Christi

Applications Committee

AGENDA:

The committee will discuss and possibly act on: applications or requests received from applicants (Laura Martin, Susan Roller, Beverly Seidlecki, Rose Marion Thompson, Jenifer D. Williams, Doris Wyman, Sammie Burkhead Smith, Linda M. Lie Van, Elaine Peterson, Laura Hines, Malisa Janes and Teresa Randall); and petitions for rule change filed by Susan Roller.

For ADA assistance, call Suzzanna Currier, (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:44 a.m.

TRD-9707819



Saturday, June 28, 1997, 8:00 a.m.

Omni Marina Hotel, Riviera 5 Meeting Room , 707 North Shoreline Boulevard

Corpus Christi

Board Workshop

AGENDA:

The committee will discuss and possibly act on: setting future goals and objectives; an overview of the board's role in the administrative hearing process; board policy relating to sexual misconduct; a review of legislation passed in 1997 which affects board operations and the regulation of licensed professional counselors; and budget and financial issues.

For ADA assistance, call Suzzanna Currier, at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:44 a.m.

TRD-9707822



Sunday, June 29, 1997, 9:00 a.m.

Omni Marina Hotel, Riviera 5 Meeting Room , 707 North Shoreline Boulevard

Corpus Christi

Board Meeting

AGENDA:

The board meeting will begin with announcements followed by discussion and possible action on: absent board members; reports from board members concerning conference attendance; approval of the minutes of the April 5, 1997, board meeting; acknowledgment of persons who wish to appear before the board; Proposal for Decision relating to L.T.L.; board order relating to L.T.L.; committee reports (Administration and Finance Committee (Review of board office operations including policies, procedures, and personnel (executive secretary's report); finances (financial report, requests for conference attendance, anticipated expenditures for fiscal year 1998, including roster, rules, newsletters, etc., and fee recommendations); Applications Committee (applications or requests from applicants (Laura Martin, Susan Roller, Beverly Seidlecki, Rose Marion Thompson, Jenifer D. Williams, Doris Wyman, Sammie Burkhead Smith, Linda M. Lie Van, Elaine Peterson, Laura Hines, Malisa Janes and Teresa Randall); and petitions for rule change submitted by Susan Roller); Complaints committee (report from the April 5, 1997 and June 14, 1997 meetings); Testing and Continuing Education Committee (request from Paula Zambrano concerning the examination; report by Dr. Joe Dameron concerning the April 25, 1997, Ad Hoc Testing Committee; and appointments to the Ad Hoc Testing Committee); Rules committee (comments concerning and recommendation for final adoption of proposed amendments to 22 Texas Administrative Code, Chapter 681, published in the May 20, 1997 *Texas Register*, 22 TexReg 4341; letter from Dick Ancell requesting consideration of rule change; request from Davis Dickson on feedback concerning "listening earline"; petitions for rule change submitted by Wanda Kirklen and Susan Roller; and proposed amendments to 22 Texas Administrative Code, Chapter 681 to implement legislative changes); and Public and Professional Relations Committee (approval of the September issue of the newsletter; and topics for the April, 1997 newsletter); policy statement relating to sexual misconduct; pending and contemplated litigation in the Robert O'Neal lawsuit; election of the vice-chair; other matters regarding the regulations of professional counselors requiring no board action; and the setting of future meeting dates (October 10-11, 1997, Austin, Texas, and December 11-13, 1997, Houston, Texas.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658.

Filed: June 16, 1997, 9:44 a.m.

TRD-9707820



Texas Food and Fibers Commission

Tuesday, June 24, 1997, 9:30 a.m.

17360 Coit Road

Dallas

Industry Advisory Committee

AGENDA:

To draft project and funding recommendations for fiscal years 1998 and 1999—these recommendations will then be presented to the TFF Commissioners for their final approval at a later date.

Contact: Jean L. Vandelune, 17360 Coit Road, Dallas, Texas, 75252, (972) 231-0852.

Filed: June 12, 1997, 8:31 a.m.

TRD-9707626



Texas Health Care Information Council

Monday, June 23, 1997, 8:30 a.m.

Travis Building, Room 1.104, 17th and Congress Avenue

Austin

Hospital Discharge Data Committee

AGENDA:

The Hospital Discharge Data Committee will convene in open session, deliberate, and possibly take formal action on the following items: proposed hospital discharge data rule published at 22 TexReg 1560 (February 11, 1997); proposed contract to designate “rural providers”, proposed contract for information system design; proposed contract for data warehousing; and, proposed contract for data collection activities.

Contact: Jim Loyd, 4900 North Lamar, OOL-3407, Austin, Texas 78751, (512) 424-6490, fax: (512) 424-6491.

Filed: June 13, 1997, 9:39 a.m.

TRD-9707729



Monday, June 23, 1997, 8:30 a.m.

Travis Building, Room 1.104, 17th and Congress Avenue

Austin

Hospital Discharge Data Committee

REVISED AGENDA:

The Hospital Discharge Data Committee will convene in open session, deliberate, and possibly take formal action on the following items: proposed hospital discharge data rule published at 22 TexReg 1560 (February 11, 1997); proposed contract to designate “rural providers”, proposed contract for information system design; proposed contract for data warehousing; and, proposed contract for data collection activities.

Contact: Jim Loyd, 4900 North Lamar, OOL-3407, Austin, Texas 78751, (512) 424-6490, fax: (512) 424-6491.

Filed: June 13, 1997, 11:41 a.m.

TRD-9707736



Monday, June 23, 1997, 8:30 a.m.

Travis Building, Room 1.100, 17th and Congress Avenue

Austin

Non-Hospital Data and Expanded Information Plan Committee

AGENDA:

The Non-Hospital Discharge Data and Expanded Information Plan Committee will convene in open session, deliberate, and possibly take formal action on the following items: deliberation and final recommendation to the council concerning the proposed HMO/HEDIS rule (22 Texas Register 2481, March 7, 1997).

Contact: Jim Loyd, 4900 North Lamar, OOL-3407, Austin, Texas 78751, (512) 424-6490, fax: (512) 424-6491.

Filed: June 13, 1997, 9:39 a.m.

TRD-9707730



Monday, June 23, 1997, 10:30 a.m.

Travis Building, Room 1.104, 17th and Congress Avenue

Austin

Board

AGENDA:

The Council will convene in open session, deliberate, and possibly take formal action on the following items: minutes of May 19, 1997; Committee reports; proposed HMO/HEDIS rule published at 22 TexReg 2481 (March 7, 1997); proposed Hospital Discharge Data Rule published in 22 TexReg 1560 (February 11, 1997); contracts concerning identification of rural providers, information system design, data warehousing, and data collection activities; policies relating to technical advisory committees; transfer of funds to TDH; procedures relating to the hiring of an Executive Director, including job description, posting requirements, evaluation of applications, interviews, selections, and possible consultant contracts to provide expert assistance; pending litigation, Al Barber v. Texas Department of Health and Texas Health Care Information Council; and, election of interim vice-chairperson.

Contact: Jim Loyd, 4900 North Lamar, OOL-3407, Austin, Texas 78751, (512) 424-6490, fax: (512) 424-6491.

Filed: June 13, 1997, 11:41 a.m.

TRD-9707735



Texas Higher Education Coordinating Board

Tuesday, June 24, 1997, 10:00 a.m.

Chevy Chase Office Complex, Building One, Room 1.100B

7700 Chevy Chase Drive

Austin

Joint Advisory Committee-Coordinating Board/State Board of Education/State Board for Educator Certification/Texas Workforce Commission

AGENDA:

Approval of minutes from December 4, 1996 meeting; Status of Carl Perkins funds- THECB/TEA staff; Data Sharing among TEA-THECB-SBEC- Commissioner Ashworth; Implications of legislation passed by the 75th Texas Legislature- HB588, on admission to universities-Don Brown, Deputy Commissioner, THECB and SB148, on revisions to TASP- Ron Swanson, THECB; Brief reports on items of continuing interest: Adult Literacy Assessment- TEA Staff; Student Performance on the mathematics portion of TASP- Ron Swanson, THECB staff; TECWEC Skills Development Board — TECWEC member; THECB actions to improve teacher preparation- THECB staff; Teacher certification in relation to reading courses- Pat Tackett, SBEC and Sarah Burkhalter, THECB; and School-to-Work update- Ara Merjanian, Governor's Office.

Contact: Marshall Hill, P.O. Box 12788, Capitol Station; Austin, Texas 78711, (512) 483-6101.

Filed: June 12, 1997, 9:31 a.m.

TRD-9707628



Texas HMO Solvency Surveillance Commission

Friday, June 27, 1997, 9:00 a.m.

William P. Hobby Building, 333 Guadalupe, Room 1264

Austin

AGENDA:

1. Call to Order
2. Introduction of members and staff
3. Brief Overview of Legislative Changes to URA Rules
4. Presentation of new rules
5. Dates of additional meetings
6. Adjourn

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: June 12, 1997, 3:56 p.m.

TRD-9707664



Texas Department of Housing and Community Affairs

Friday, June 20, 1997, 9:30 a.m.

507 Sabine Street, Room 437

Austin

Program Committee

AGENDA:

The Program Committee of the board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of the April 21, 1997 Meeting; Housing Demonstration Fund Contracts for City of Fredericksburg and City of Nash; Marketing Plan for Program 52; Neighborhood Partnership Program for Majestic Homes for \$700,000 and Green Briar North for \$600,000; Establishment of Rule Abolishing State Review Committee; Statewide Architectural Barrier Removal Committees Final Recommendation; HOME Program Recommendations for Owner Occupied Homebuyer Assistance and Tenant Based Rental Assistance Awards; Deobligation of HUDCO Interim Construction and Homebuyer Assistance Awards; Increase in North Athens Citizens Rental Project Assistance Contract; Reduction in Brentwood Oaks Apartments Contract; Housing Trust Fund Multi-Family Awards for 1997; Report on Landscaping and Low Maintenance for Housing Program; Report on State Disaster Response to Tornado Victims; Executive Session — Personnel Matters; Anticipated Litigation; Personnel Matters regarding duties and responsibilities in relationship to Budget under §551.074 of Texas Government Code; Adjourn.

Contact: Larry Paul Manley, 507 Sabine, #900, Austin, Texas (512) 475-3934.

Filed: June 12, 1997, 4:37 p.m.

TRD-9707667



Texas Commission on Human Rights

Thursday, June 19, 1997, 9:00 a.m., rescheduled from June 10, 1997

Texas Commission on Human Rights' Offices, 6330 Highway 290 East, Third Floor Conference Room

Austin

EMERGENCY MEETING AGENDA:

Executive Session/Commissioner Panels Pursuant TEX. GOVT. CODE §551.071; Item(s) Covered in Executive Session; Welcoming of Guests; Minutes; Administrative Reports; Memorandum of Understanding Between the Commission and the O.A.G.; Legislation Affecting the Commission passed during the 75th Legislative Session; EEO Compliance Training; State Agencies' Personnel Policies; Legislative Appropriations for Fiscal '98-'99; FEP/EEOC Policy Conference; HUD Policy Conference; Annual EEO Law Conference; Filling Vacancies for Trainer Investigator; Commissioner Correspondence; Commissioner Issues; Unfinished Business. All Items on the Agenda May Be Subject to a Vote, if Appropriate.

REASON FOR EMERGENCY: The Chairperson will be on restrictive travel after June 20, 1997, due to her pregnancy and also because meeting scheduled for June 10, 1997 was cancelled due to lack of quorum and TCHR can establish a quorum on June 19, 1997.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 437-3450.

Filed: June 12, 1997, 3:55 p.m.

TRD-9707663



Texas Department of Human Services (TDHS)

Friday, June 20, 1997, 10:00 a.m.

701 West 51st Street, East Tower, Public Hearing Room

Austin

Texas Board of Human Services

AGENDA:

1. Approval of the Minutes of May 16, 1997. 2. Required Living Arrangements for Teen Parents to Receive Assistance in the Aid to Families with Dependent Children (AFDC) Program. 3. Amendments to the Memorandum of Understanding (MOU) on the Capacity Assessment for Self-care and Financial Management. 4. Fiscal Monitoring Rules for Community Care for Aged and Disabled (CCAD) and Community-based Alternatives (CBA) Assisted Living and Residential Care Providers. 5. Budget Adjustment. 6. Proposed Fiscal Year 1998 Operating Budget. 7. Commissioner's Report; a. Legislative Update. b. Historically Underutilized Business (HUB) Program Status. c. Announcements and Comments. d. Tracking of Board Action.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3048.

Filed: June 12, 1997, 4:30 p.m.

TRD-9707666



Texas Incentive and Productivity Commission

Friday, June 20, 1997, 10:00 a.m.

Clements Building, 15th and Lavaca, Committee Room 5

Austin

REVISED AGENDA:

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: June 12, 1997, 11:02 a.m.

TRD-9707638



Texas Department of Insurance

Friday, June 27, 1997, 9:00 a.m.

Stephen F. Austin Building, 1700 North Congress, Suite 1100

Austin

AGENDA:

Docket Number 454-97-0791.C: To consider whether a cease and desist order should be entered against HUGH MAXWELL ROTH AND HUGH MAXWELL ROTH d/b/a THE GENERAL AGENCY, Dallas and Plano, Texas for engaging in the unauthorized business of insurance in violation of Article 1.14-1 §3(b) of the Insurance code (continued from May 12, 1997).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: June 16, 1997, 9:19 a.m.

TRD-9707808



Monday, June 30, 1997, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress, Suite 1100

Austin

AGENDA:

Docket Number 454-97-0937.C: To consider whether disciplinary action should be taken against IRA L. EPSTEIN, Fort Worth and Round Rock, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: June 16, 1997, 9:19 a.m.

TRD-9707807



Wednesday, July 2, 1997, 9:00 a.m.

William P. Hobby Jr., Building, 333 Guadalupe, Tower I, Room 100

Austin

AGENDA:

Pursuant to the Texas Insurance Code, Article 1.33B(c)(5) and 28 TAC §1.1317(3), the Commissioner of Insurance will hold a public meeting to consider the proposal for decision and the exceptions, replies, briefs and arguments of the parties in SOAH Docket Number 454-96-1638G. In the Matter of the Residential Property Insurance Benchmark Rate Hearing and Rates for the Texas Catastrophe Property Insurance Association. The parties are permitted to make oral argument before the Commissioner in the same order of presentation as in the benchmark hearing.

Additionally, the commissioner will hear comments from the parties addressing the following issues:

(1) In Senate Bill 1499, the 75th Legislature enacted an amendment to the Insurance Code, Article 5.13-2 which includes farm and ranch owners and farm and ranch policies under that article rather than under Article 5.101 as they have been. The effective date of Senate Bill 1499 is September 1, 1997. The Commissioner will hear comments regarding the exclusion of the rates for farm and ranch owners and farm and ranch policies from the residential property rate order as well as the omission of the provisions relating to farm and ranch owners and farm and ranch policies from the Texas Personal Lines Manual.

(2) The change from Key Rating to the Public Protection Classes in the residential property rate system may require extensive implementation time for insurers to effectuate the changes. The Commissioner will hear comments regarding the optimal and most reasonable time frame for implementation of the new system.

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Texas Department of Insurance, (512) 463-6327.

Filed: June 13, 1997, 8:08 a.m.

TRD-9707675



Texas Department of Licensing and Regulation

Wednesday, June 25, 1997, 10:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible denial or issuance of an air conditioning and refrigeration contractors license to the Applicant, Jack H. Townsend, pursuant to 16 Texas Administrative Code, Chapter 75; Texas Government Code, Chapter 2001, Texas Revised Civil Statutes Annotated Articles 8861 and 9100; and 16 TEX. ADMIN. CODE, Chapter 60.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: June 13, 1997, 8:10 a.m.

TRD-9707676



Texas Lottery Commission

Friday, June 20, 1997, 9:00 a.m.

611 East Sixth Street, Grant Building, Commission Auditorium

Austin

Committee or Board

AGENDA:

According to the agenda summary, the Texas Lottery Commission will call the meeting to order; approval of the minutes of the June 9, 1997 Commission meeting; discussion and possible action on the appointment and employment of a Bingo Operations Director, including deliberation and discussion relating to job description, essential job functions, duties and responsibilities, compensation, education, experience, knowledge and skills, and scope and method of candidate search: consideration of and possible action, including adoption of amendments, on 16 TAC §402.567, concerning the Bingo Advisory Committee; consideration and possible action, including appointments and the nominations process, on the Bingo Advisory Committee; consider and possible action, including emergency rulemaking and/or proposed rulemaking, on a rule or rules relating to the distribution of bingo proceeds for charitable purposes; status report, possible discussion and possible action on the procurement of lottery operator consultant(s); status report, possible discussion and possible action on the procurement of audit services to audit the lottery operator; status report, possible discussion and possible action on the Request for Proposals for the lottery operator; Commission may meet in Executive Session: return to open session for further deliberation and possible action on any matter discussed in Executive Session; status report, possible discussion, and possible action, including implementation, on legislation; consideration of the status and possible entry of an order in any contested case if a proposal for decision has been received from the assigned administrative law judge and the time period has lapsed for the filing of exceptions and replies; report by the Executive Director and possible discussion and/or action; adjourn.

For ADA assistance, call Michelle Guerrero, at (512) 344-5113 at least two days prior to meeting.

Contact: Michelle Guerrero, P.O. Box 16630, Austin, Texas 78761-6630.

Filed: June 12, 1997, 5:10 p.m.

TRD-9707674



Texas Natural Resource Conservation Commission

Wednesday, June 25, 1997, 9:30 a.m., 1:00 p.m. and 3:00 p.m.

Room 201S, Building E, 12100 Park 35 Circle

Austin

AGENDA:

The Commission will consider approving the following matters on the agenda: Enforcement Report; Hearing Requests; Authorization to Construct; District Matters; Nunc Pro Tunc Order; Petroleum Storage Tank Enforcement Agreed Orders; Petroleum Storage Tank Enforcement Default Orders; Air Enforcement Agreed Orders; Air Enforcement Default Order; Public Water Supply Enforcement Agreed Order; Public Water Supply Enforcement Default Orders; Municipal Waste Water Discharge Enforcement Agreed Orders; Water Pollution Control and Abatement Program; Industrial Waste Water Discharge Enforcement Agreed Orders; Modify, Affirm, Set Aside Emergency Order; Water Well Driller Default Order; Agricultural Enforcement Agreed Order; Multi-Media Agreed Orders; Superfunds; Rules; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to, rescheduling an item in its entirety or for particular action at a future date or time. The Commission will consider at its 1:00 p.m. agenda: Administrative Law Judges Proposal for Decisions; Motion for Rehearings.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: June 16, 1997, 9:01 a.m.

TRD-9707799



Structural Pest Control Board

Tuesday, June 24, 1997, 9:30 a.m.

1106 Clayton Lane, Suite 100 LW

Austin

Termite Treatment to Include Baits

AGENDA:

1. Discuss termite standards including baits.
2. Set Date for Next Meeting.

Contact: Benny Mathis, 1106 Clayton Lane, Suite 100 LW, Austin, Texas 78723, (512) 451-7200.

Filed: June 12, 1997, 3:49 p.m.

TRD-9707657

◆ ◆ ◆
Texas State Board of Pharmacy

Friday, June 20, 1997, 9:00 a.m.

333 Guadalupe Street, Suite 2-225

Austin

Board

AGENDA:

A. Executive Session to Review and Discuss Employment Applications for Position of Executive Director of Texas State Board of Pharmacy, to Discuss Appointment of an Acting Executive Director, and to Discuss Terms and Conditions of Employment of the Executive Director.

B. Executive Session to Interview Employment Applicants for Executive Director Position

C. Consideration and Action Concerning Employment of the Executive Director

D. Consideration and Action Concerning Appointment of Acting Executive Director

E. Consideration and Action on Proposed Agreed Board Orders

F. Executive Session to Consider Confidential Proposed Agreed Board Orders

G. Items to be Placed on Agenda for August 1997 Board Meeting.

Contact: Carol Willess, William P. Hobby Building, Suite 3-600, 333 Guadalupe, Box 21, Austin, Texas 78701-3942, (512) 305-8028.

Filed: June 12, 1997, 11:11 a.m.

TRD-9707639

◆ ◆ ◆
Thursday, June 26, 1997, 9:00 a.m.

Stephen F. Austin Building, 1700 North Congress, 11th Floor, Suite 1100

Austin

Disciplinary Hearing

AGENDA:

The State Office of Administrative Hearings will conduct a disciplinary hearing in the matter of Walgreen Company, #1733, TSBP License #11672, Case: #J-95-005

Contact: Carol Fisher, 333 Guadalupe, Suite 3-600, Box 21, Austin, Texas 78701-3942, (512) 305-8000.

Filed: June 13, 1997, 8:10 a.m.

TRD-9707677

◆ ◆ ◆
Texas Department of Protective and Regulatory Services

Friday, June 27, 1997, 10:00 a.m.

Texas Department of Health, Main Building, Room G107, 1100 49th Street

Austin

The State Child Fatality Review Committee Regular Meeting

AGENDA:

Introductions. Old Business: Data Collection Report, Video Training, Coordinators Report, Team Visits. New Business: Discussion/planning of Network Meeting in Corpus Christi. Adjourn.

Contact: Ann French Clark, 1351 East Bardin Road, Arlington, Texas 76018, (817) 264-4310.

Filed: June 12, 1997, 4:31 p.m.

TRD-9707670

◆ ◆ ◆
Texas Council on Purchasing from People with Disabilities

Thursday, June 26 1997, 7:00 p.m.

Resource Connection of Tarrant County, Conference and Recreation Center, Boardroom, 2300 Circle Drive

Fort Worth

Town Hall Meeting

AGENDA:

Public Communication

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Erica Goldbloom at (512) 463-3244, two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Cynthia Hill, 1711 San Jacinto, Austin, Texas 78701, (512) 463-6422.

Filed: June 13, 1997, 11:42 a.m.

TRD-9707737

◆ ◆ ◆
Friday, June 27, 1997, 9:00 a.m.

Resource Connection of Tarrant County, Conference and Recreation Center, Boardroom, 2300 Circle Drive

Fort Worth

Quarterly Meeting

AGENDA:

Approval of Minutes from March 7, 1997 Open Meeting;

Consideration of Pricing Subcommittee Recommendations

Item 1- Discussion and Action on New Service Contracts Completed Under Temporary Authority

Item 2- Discussion and Action on New Services

Item 3- Discussion and Action on Renewal Services

Item 4- Discussion and Action on New Products

Item 5– Discussion and Action on Product Changes and Revisions
Discussion and Action on Media Inquiry Procedures
Presentation of TIBH Industries, Inc. Quarterly Activity Report
Public Comment Period; and
Suggested Agenda Items for Future Consideration

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Erica Goldbloom at (512) 463–3244, two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Cynthia Hill, 1711 San Jacinto, Austin, Texas 78701, (512) 463–6422.

Filed: June 13, 1997, 11:42 a.m.

TRD-9707738



Railroad Commission of Texas

Tuesday, June 24, 1997, 9:00 a.m.

1701 North Congress Avenue, 12th Floor Conference Room 12–170

Austin

AGENDA:

The Commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Kathy Way, P.O. Box 12967, Austin, Texas 78711, (512) 463–6729.

Filed: June 13, 1997, 4:22 p.m.

TRD-9707785



Tuesday, June 24, 1997, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1–111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Contact: Lindil Fowler, Jr., P.O. Box 12967, Austin, Texas 78711–2967, (512) 463–7033.

Filed: June 13, 1997, 4:22 p.m.

TRD-9707786



Recycling Market Development Board

Thursday, June 26, 1997, 8:30 a.m.

John H. Reagan Building, Room 101, 105 West 15th Street

Austin

AGENDA:

I. Call go Order

II. Announcements

III. Reading of Minutes from March 18, 1997 Meeting

IV. Old Business:

1) Quarterly updates of “ongoing” RMDB Action Plan activities are in Board packets.

2) Report on status of September state purchaser “Buy Recycled” training.

3) Report on TNRCC solid waste and recycling rate calculation project.

4) Report on surplus computer and electronic equipment.

5) Reports on status of letters to Legislature with state agency recycled-product purchase reports.

6) Report on meetings with the Texas Higher Education Coordinating Board regarding increasing college and university purchases of recycled products.

V. New Business:

1) Comprehensive report on recycling-related legislation.

2) Report and explanation of SIC code changes affecting identification of recycled products.

3) Presentation of TNRCC “Input-Output” Study assessing potential demand for recycled materials and the supply of recycled materials.

4) Report on the Use of tipping fee reimbursements, types of grant awards, and the disposition of unused tipping fee reimbursement funds.

5) Report on Capitol Complex recycling collection, opportunities for, and challenges relating to, adding additional materials, and a report on recycling in the Capitol building.

VI. Public Comment

VII. Adjourn

Contact: Terry Robinson, 1700 North Congress Avenue, Room 620, Austin, Texas 78701, (512) 463–5344.

Filed: June 13, 1997, 1:10 p.m.

TRD-9707747



Texas Rehabilitation Commission

Thursday, June 26, 1997, 9:30 a.m.

4900 North Lamar Boulevard, Brown-Heatly Building, Public Hearing Room, First Floor

Austin

Regular Board Meeting

AGENDA:

- Roll Call- Introduction of Guests- Invocation
- Approval of Minutes: March 27, 1997 Board Meeting
- Commissioner's Comments
- Legislative Update
- Appropriations Update
- Rehabilitation Services Job Retention Study
- Rehabilitation Services System Update
- Disability Determination Services Update
- Survey of Organizational Excellence
- Approval of Revised FY 1997 Audit Plan
- Management Audit Update

Executive Session:

Review of potential litigation, personnel practices, and staff presentations involving the Texas Rehabilitation Commission, Disability Determination Services and Management Audit. These subjects will be discussed in Executive Session pursuant to §§551.071, 551.074, and 551.074 of the Open Meetings Act (Texas Government Code Annotated §551.)

Adjourn

If all agenda items have been completed, the Board will adjourn. If all agenda items have not been completed, the Board will recess until 9:30 a.m., Friday, June 27, 1997 to reconvene in the Public Hearing Room, First Floor, Brown-Heatly Building, 4900 North Lamar, Austin, Texas.

For ADA assistance, call Oleta Grizzle, (512) 424-4057.

Contact: Charles Schiesser, 4900 North Lamar Boulevard, Suite 7106, Austin, Texas 78751, (512) 424-4003 or TDD (512) 424-4045. For Filed: June 13, 1997, 1:10 p.m.

TRD-9707745



Friday, June 27, 1997, 9:30 a.m.

4900 North Lamar Boulevard, Brown-Heatly Building, Public Hearing Room, First Floor

Austin

Regular Board Meeting

AGENDA:

- Roll Call- Introduction of Guests-
- Continuation of Board Agenda from June 26, 1997

Executive Session:

Review of potential litigation, personnel practices, and staff presentations involving the Texas Rehabilitation Commission, Disability Determination Services and Management Audit. These subjects will be discussed in Executive Session pursuant to §§551.071, 551.074, and 551.075 of the Open Meetings Act (Texas Government Code Annotated §551.)

Adjourn

For ADA assistance, call Oleta Grizzle, (512) 424-4057.

Contact: Charles Schiesser, 4900 North Lamar Boulevard, Suite 7106, Austin, Texas 78751, (512) 424-4003 or TDD (512) 424-4045. Filed: June 13, 1997, 1:10 p.m.

TRD-9707746



University of Houston System

Thursday, June 19, 1997, 8:00 a.m.

Hilton Hotel and Conference Center, University of Houston, Shamrock Room, 4800 Calhoun

Houston

Board of Regents

AGENDA:

Executive Session; Open Forum; Appointment of William Staples as President, University of Houston-Clear Lake; FY98-98 Board of Regents Calendar of Meetings; Chancellor's and Chairman's Reports; 1997-98 Holiday Scheduled; B.S. Degree in Biology; Faculty Emeritus Appointment; Monthly Reports of contracts and Grants; Endowment Payout Policy for Fiscal Years 1997 through 2001; Endowment Fund Statement of Investment Objectives and Policies; Personnel Recommendations- June 1997; Dual Employment Compliance Record and Finding Request; Deferred Compensation Plan; FY98 Packaging Plan for the Capital Renewal and Deferred Maintenance Program; Award of Construction Contract to American Restoration, Inc.; Appointment of Architect for Center for Public Broadcasting; Amendment and Extension of Current Agreement; Athletic Agreements; Purchase Orders; Award of Contract; FY 1998 Tuition Change; Consolidated Revenue Bonds, Series 1997; Annual Write-off of Accounts and Notes Receivables, FY97; State Comptroller's Resolutions. (See Agenda.)

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: June 12, 1997, 2:28 p.m.

TRD-9707649



University of Texas, M.D. Anderson Cancer Center

Tuesday, June 17, 1997, 9:00 a.m.

1515 Holcombe Boulevard, Room B8-4344.

Houston

Institutional Animal Care and Use Committee

AGENDA:

Review of Protocols for Animal Care and Use, and Modifications thereof.

Contact: Anthony Mastromarino, Ph.D., 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: June 11, 1997, 4:06 p.m.

TRD-9707619



Texas Water Development Board

Wednesday, June 18, 1997, 3:00 p.m.

City Hall, 1300 West Houston

McAllen

Finance Committee

AGENDA:

1. Consider approval of the minutes of the meeting of May 14, 1997.
2. Report on Board's investment portfolio for the period ending May 31, 1997, as required by the Public Funds Investment Act.
3. Briefing and discussion on BECC and NADBank related issues.
4. Briefing and discussion on the Fort Bend County Fresh Water Supply District/City of Arcola regional water supply project.
5. Briefing on present and future EDAP projects.
6. Report on the status of approved contracts.
7. May consider items on the agenda of the June 19, 1997 Board meeting.

*Additional non-committee Board members may be present to deliberate but will not vote in the Committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: June 10, 1997, 11:09 a.m.

TRD-9707510



Thursday, June 19, 1997, 9:00 a.m.

City Hall, 1300 West Houston

McAllen

AGENDA:

The Board will consider: minutes; committee, executive, and financial reports; financial assistance to Panhandle Ground water Conservation District #3, Gulf Coast Water Authority, Terrell County Water Control and Improvement District, First Colony Municipal Utility District #9, West, Rio Hondo and Brownville; a request from Laguna Madre Water District for release of requirement to fund the Subordinate Lien Emergency Fund established by the District's resolution authorizing the Series 1986 bonds; contract amendments with UT-LBJ, Vinson and Elkins, and Lower Rio Grande Valley Development Council; research contract with Texas Parks and Wildlife Department; Lower Rio Grande Valley projects; water supply conditions and planning activities in the Lower Rio Grande Valley; authorizing the sale, delivery and selection of underwriters for \$100,000,000 Texas Water Development Board General Obligation Bonds; publication of amendments to Chapter 371, Drinking Water State Revolving Fund related to source water protection; a request from El Paso County to use contingency line item funds for purchase of a private water system; legislative matters affecting the Board; a request from Mauriceville Special Utility District to waive the additional bonds test in Resolution Number 95-45; a change in the source of funds for certain commitments.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: June 11, 1997, 1:55 p.m.

TRD-9707604



Texas Workforce Commission

Friday, June 20, 1997, 6:30 p.m.

Radisson Plaza Hotel, 815 Main Street

Fort Worth

AGENDA:

Discussion of proposed rules concerning Child Care and Development (40 TAC, Chapter 809).

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 12, 1997, 1:36 p.m.

TRD-9707645



Saturday, June 21, 1997, 9:00 a.m.

Dallas Parkway Hilton, 4801 LBJ Freeway

Dallas

AGENDA:

Discussion of proposed rules concerning Allocation and Funding (40 TAC, Chapter 800).

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:17 p.m.

TRD-9707751



Monday, June 23, 1997, 9:00 a.m.

Isleta ISD, 9600 Sims

El Paso

AGENDA:

Discussion of proposed rules concerning Allocation and Funding (40 TAC, Chapter 800).

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:19 p.m.

TRD-9707754



Monday, June 23, 1997, 10:30 a.m.

Beaumont Hilton, 2355 IH10 South

Beaumont

AGENDA:

Discussion of proposed rules concerning Child Care and Development (40 TAC, Chapter 809) and child care state plan for federal funds.

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:16 p.m.

TRD-9707749



Monday, June 23, 1997, 12:00 Noon

Ysleta ISD, 9600 Sims, Ysleta Room

El Paso

AGENDA:

Discussion of proposed rules concerning Child Care and Development (40 TAC, Chapter 809) and child care state plan for federal funding.

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:16 p.m.

TRD-9707750



Tuesday, June 24, 1997, 4:00 p.m.

Lockhart City Hall, Glosserman Room, 308 West San Antonio

Lockhart

AGENDA:

Discussion of proposed rules concerning Child Care and Development (40 TAC, Chapter 809) and child care state plan for federal funding.

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:15 p.m.

TRD-9707748



Wednesday, June 25, 1997, 10:00 a.m.

Embassy Suites, 1800 South Second Street

McAllen

AGENDA:

Discussion of proposed rules concerning Allocation and Funding (40 TAC, Chapter 800).

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:18 p.m.

TRD-9707752



Wednesday, July 2, 1997, 9:00 a.m.

Holiday Inn Select- Greenway Plaza, 2712 Southwest Freeway

Houston

AGENDA:

Discussion of proposed rules concerning Allocation and Funding (40 TAC, Chapter 800).

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: June 13, 1997, 1:19 p.m.

TRD-9707753



Texas Council on Workforce and Economic Competitiveness

Tuesday, June 24, 1997, 2:00 p.m.

1100 San Jacinto, Room 100

Austin

AGENDA:

2:00 p.m.-Call to Order, Announcements, Public Comment; Action Item- Consideration of Approval of the Title III Governor's Reserve Fund Policy; Action Item- Consideration of Approval of the JTPA PY96-97 Plan Modification/Employment Services PY97 Consolidated State Plan (Governor's Coordination and Special Services Plan); Briefing Item — Analysis of the Title IIB Summer Youth Employment and Training Program of prior years activity to the current proposed planned activities; Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, (512) 936-8103 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768-(512) 936-8103.

Filed: June 16, 1997, 10:00 a.m.

TRD-9707823



Texas Workers' Compensation Insurance Facility

Tuesday, June 24, 1997, 9:45 a.m.

DoubleTree Guest Suites Hotel, 303 West 15th Street

Austin

Governing Committee

AGENDA:

Executive Session(s) regarding personnel matters and pending legal matters. Following the closed Executive Session(s), the Governing Committee will reconvene in Open and Public Session and take any action as may be desirable or necessary as a result of the closed deliberations. Approval of minutes from the June 10, 1997 Governing Committee meeting. Discussion and possible approval of the purchase agreement, if any, with Swiss Re for the transfer of control of the Facility's assets and liabilities. Consideration and possible action on servicing company request for reimbursement of legal fees and expenses. Executive Director's Report.

Contact: Peter E. Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: June 13, 1997. 3:46 p.m.

TRD-9707775



Regional Meetings

Meetings filed June 11, 1997

Cash Water Supply Corporation, Board of Directors, met at Corporation Office, FM 1564 at Highway 34, Greenville, June 16, 1997, at 7:00 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129, (903) 883-2695. TRD-9707607.

Education Service Center, Region 12, Board of Directors, will meet at 2101 West Loop 340, June 20, 1997 at 11:30 a.m. Information may be obtained from Harry J. Beavers or Vivian L. McCoy, P.O. Box 23409, Waco, Texas 76702-3409, (817) 666-0707. TRD-9707599.

Education Service Center, Region 14, Board of Directors, met at 1850 Highway 351, Abilene, June 19, 1997 at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8608. TRD-9707621.

Harris County Appraisal District, Board of Directors, met at 2800 North Loop West, Eighth Floor, Houston, June 18, 1997 at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9707606.

Houston-Galveston Area Council, Transportation Department, met at 3555 Timmons Lane, Second Floor, Conference Room A, Houston, June 17, 1997 at 4:30 p.m. Information may be obtained from Ch'rese Jackson, 3555 Timmons Lane, Suite 500, Houston, Texas 77227, (713) 993-4501. TRD-9707598.

Jack County Appraisal District, Board of Directors, met at 210 North Church Street, Jacksboro, June 17, 1997 at 7:00 p.m. Information may be obtained from Gary L. Zeitler or Liane Horton, P.O. Box 958, Jacksboro, Texas, 76458, (817) 567-6301. TRD-9707615.

Nortex Regional Planning Commission, North Texas Local Workforce Development Board, will meet at 4309 Jacksboro Highway, Suite 200, Wichita Falls, June 26, 1997, at Noon. Information may be obtained from Mona Statser, P.O. Box 5144, Wichita Falls, Texas 76307-5144, (940) 322-5281. TRD-9707622.

Tarrant Appraisal District, Board of Directors, will meet at 2301 Gravel Road, Fort Worth, June 27, 1997 at 9:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 284-0024. TRD-9707620.

Trinity River Authority of Texas, Administration Committee, met at 5300 South Collier Street, Arlington, June 18, 1997 at 10:30 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9707601.

Upshur County Appraisal District, Appraisal Review Board, met at Warren and Trinity Streets, Gilmer, June 16, 1997 at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9707618.

West Central Texas Municipal Water District, met at 410 Hickory, Abilene, June 17, 1997 at 9:30 a.m. Information may be obtained from David E. Bell, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254. TRD-9707623.

West Central Texas Workforce Development Board, met with revised agenda, at 1025 E.N.10th Street, Abilene, June 18, 1997 at 10:30 a.m. Information may be obtained from Mary Ross, 1025 E.N. 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD-9707595.

Workforce Development Board of the Coastal Bend, Board of Directors, met at Silvarado Steakhouse, 3802 Five Points Road

(Calallen), Corpus Christi, June 18, 1997 at 4:00 p.m. Information may be obtained from Shelley Franco, 1616 Martin Luther King Drive, Corpus Christi, Texas 78401, (512) 889-5300, extension 107. TRD-9707608.

Meetings filed June 12, 1997

Blanco County Appraisal District, Board of Directors, met at 200 North Avenue G, Johnson City, June 16, 1997 at Noon. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9707625.

Brazos Valley Development Council, Workforce Development Board, met at 1905 South Texas Avenue, Bryan, June 19, 1997 at 2:30 p.m. Information may be obtained from Angie Alaniz, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9707668.

Burnet County Appraisal District, Board of Directors, met at 110 Avenue H, Suite 106, Marble Falls, June 19, 1997, at Noon. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9707665.

Burke Center, Board of Trustees, will meet at 4101 South Medford Drive, Lufkin, June 24, 1997, at 1:00 p.m. Information may be obtained from Debra Fox, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9707631.

Dallas Area Rapid Transit, Audit Committee, met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, June 16, 1997 at 9:00 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9707661.

Dallas Area Rapid Transit, Legislative Ad Hoc Committee, met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, June 16, 1997 at 2:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9707660.

Dallas Area Rapid Transit, Planning Ad Hoc Committee, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, June 16, 1997 at 4:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9707659.

Denton Central Appraisal District, Board of Directors, will meet at 3911 Morse Street, Denton, June 26, 1997 at 4:00 p.m. Information may be obtained from Connie Bradshaw, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9707627.

East Texas Council of Governments, Workforce Development Board, met at 3119 Estes Parkway, Longview, June 19, 1997 at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9707643.

Golden Crescent Private Industry Council, Executive Committee, met at 2401 Houston Highway, Victoria, June 16, 1997, 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9707644.

Gonzales County Appraisal District, Board of Directors, met at 928 St. Paul Street, Gonzales, June 19, 1997 at 6:00 p.m. Information may be obtained from Brenda Downey, or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879 or fax: (210) 672-8345. TRD-9707662.

Hays County Appraisal District, Appraisal Review Board, met at 21001 North IH35, Kyle, June 18, 1997 at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD-9707673.

Hays County Appraisal District, Appraisal Review Board, met at 21001 North IH35, Kyle, June 19, 1997 at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD-9707672.

Heart of Texas Council of Governments, Executive Committee, will meet at 300 Franklin Avenue, Waco, June 26, 1997 at 10:00 a.m. Information may be obtained from Donna Tomlinson, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9707647.

Heart of Texas Council of Governments, Local Workforce Development Board, will meet at 300 Franklin Avenue, Waco, June 26, 1997 at 5:30 p.m. Information may be obtained from Donna Tomlinson, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9707646.

Houston-Galveston Area Council, Area Emissions Reduction Credit Organization, (AERCO), will meet at 3555 Timmons Lane, Conference Room B, Second Floor, Houston, June 20, 1997 at 9:30 a.m. Information may be obtained from Mary Gonzalez, 3555 Timmons Lane, Suite 500, Houston, Texas 77027-6478, (713) 627-3200. TRD-9707669.

Lampasas County Appraisal District, Appraisal Review Board, met at 109 East Fifth Street, Lampasas, June 17, 1997 at 9:00 a.m. Information may be obtained from Katrina Perry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9707637.

Lampasas County Appraisal District, Board of Directors, met at 109 East Fifth Street, Lampasas, June 19, 1997 at 7:00 p.m. Information may be obtained from Katrina Perry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9707636.

Mason County Appraisal District, Appraisal Review Board, met at 210 Westmoreland, Mason, June 19, 1997 at 10:00 a.m. Information may be obtained from Deborah Geistweidt, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989. TRD-9707640.

Riceland Regional Mental Health Authority, Board of Trustees Executive Committee, met at 3007 North Richmond Road, Wharton, June 19, 1997 at 1:00 p.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9707648.

Sabine Valley Center, Financial Committee, met at 107 Woodbine Place, Judson Road, Longview, June 19, 1997 at 6:00 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9707635.

Sabine Valley Center, Care and Treatment Committee, met at 107 Woodbine Place, Judson Road, Longview, June 19, 1997 at 6:15 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9707634.

Sabine Valley Center, Board of Trustees, met at 107 Woodbine Place, Judson Road, Longview, June 19, 1997 at 7:00 p.m. Information may be obtained from Inman White, or Ann Reed, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9707633.

Tyler County Appraisal District, Appraisal Review Board, will meet at 806 West Bluff, Woodville, June 25, 1997 at 9:30 a.m. Information

may be obtained from Tyler CAD, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9707630.

Meetings filed June 13, 1997

Alamo Area Council of Governments, Management Committee, met at 118 Broadway, Suite 400, San Antonio, June 18, 1997 at 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9707740.

Archer County Appraisal District, Appraisal Review Board, met at 101 South Center, Archer City, June 17, 1997, at 9:30 a.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas, (940) 574-2172. TRD-9707744.

Ark-Tex Council of Governments, Private Industry Council, Executive and Planning Committees, met at Mt. Pleasant Chamber of Commerce, Mt. Pleasant, June 19, 1997 at 1:30 p.m. Information may be obtained from Sandy Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9707741.

Bastrop Central Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, June 19, 1997 at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9707680.

Bexar Appraisal District, Board of Directors, met at 535 South Main Street, San Antonio, June 16, 1997 at 5:00 p.m. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9707763.

Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main Street, P.O. Box 830248, San Antonio, June 20, 1997 at 9:00 a.m. Information may be obtained from Beverly Houston, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9707779.

Bosque County Central Appraisal District, Appraisal Review Board, met at 202 South Highway Six, Meridian, June 17 and 19, 1997, 9:00 a.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9707723.

Bosque County Central Appraisal District, Appraisal Review Board, met with revised agenda, at 202 South Highway Six, Meridian, June 19, 1997, 9:00 a.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9707727.

Bosque Higher Education Authority, Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 11:30 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707782.

Brazos Higher Education Authority, Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 11:00 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707781.

Brazos Higher Education Authority, Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 12:30 p.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707774.

Brazos Student Finance Corporation, Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 11:15 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707780.

Brazos Educational Assistance, Inc., Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 11:45 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707783.

Burke Center, Board of Trustees, will meet with revised agenda, at 4101 South Medford Drive, Lufkin, June 24, 1997 at 1:00 p.m. Information may be obtained from Debra Fox, Burke Center, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9707787.

Education Service Center, Region One, Board of Directors, met at 1900 West Schunior, Edinburg, June 17, 1997 at 7:00 p.m. Information may be obtained from Dr. Sylvia R. Hatton, 1900 West Schunior, Edinburg, Texas 78539, (210) 383-5611. TRD-9707728

Education Service Center, Region Two, Board of Directors, met at 209 North Water, Board Room #102, Corpus Christi, June 19, 1997, at 6:30 p.m. Information may be obtained from Dr. Ernest Zamora, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288, extension 2200. TRD-9707733.

Education Service Center, Region III, Board of Directors, met at 1905 Leary Lane, Victoria, June 16, 1997 at 1:30 p.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9707692.

Hill Country Community MHMR Center, Board of Trustees, will meet at 1991 Junction Highway, Kerrville, June 20, 1997 at 10:00 a.m. Information may be obtained from Janis Beck, 1901 Dutton Drive, Suite D, San Marcos, Texas 78666, (512) 753-2279. TRD-9707734.

Johnson County Rural Water Supply Corporation, Purchase Order Committee, met at Corporation Office, 2849 Highway 171 South, Cleburne, June 17, 1997 at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9707732.

Johnson County Rural Water Supply Corporation, Board, met at Corporation Office, 2849 Highway 171 South, Cleburne, June 17, 1997 at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9707739.

Lower Colorado River Authority, Planning and Public Policy Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707765.

Lower Colorado River Authority, Energy Operations Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707766.

Lower Colorado River Authority, Land and Water Operations Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707767.

Lower Colorado River Authority, Finance and Administration Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707768.

Lower Colorado River Authority, Audit Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707769.

Lower Colorado River Authority, Regional Development Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707770.

Lower Colorado River Authority, Emerging Issues Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, June 20, 1997 and reconvening, if necessary, June 20, 1997 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707771.

Lower Colorado River Authority, Technology and Information Services Ad Hoc Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, at 5:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707772.

Lower Colorado River Authority, Board of Directors, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, and reconvening, if necessary, June 20, 1997 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707764.

Lower Colorado River Authority, Comal Ad Hoc Committee, met at 1405 Willow Street, Riverside Conference Center, Texas Building, Bastrop, June 19, 1997, at 4:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9707773.

Palo Pinto Appraisal District, Board of Directors, met at 200 Church Avenue, Palo Pinto, June 19, 1997 at 1:30 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (940) 659-1281. TRD-9707759.

Pecos Higher Education Authority, Inc., Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at Noon. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707778.

Pecos Student Finance Corporation, Board of Directors, met at Brazos Club of Waco, Valley Mills and Waco Drive, Waco, June 18, 1997 at 12:15 p.m. Information may be obtained from Murray Watson,

Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9707777.

Rockwall County Central Appraisal District, Appraisal Review Board, met at 106 North San Jacinto, Rockwall, June 17, 1997 at 8:30 a.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (972) 771-2034. TRD-9707743.

Surplus Lines Stamping Office of Texas, Board of Directors, will meet at Hughes and Luce, L.L.P., 111 Congress Avenue, Suite 900, June 24, 1997 at 10:00 a.m. Information may be obtained from Charles L. Tea, Jr., P.O. Box 9906, Austin, Texas 78766, (512) 346-3274. TRD-9707755.

Swisher County Appraisal District, Board of Directors, met at 130 North Armstrong, Tulia, June 19, 1997 at 7:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118. TRD-9707724.

Texas Rural Communities, Inc. Board of Directors, will meet at One Horseshoe Bay Boulevard, Horseshoe Bay, June 30, 1997 at 9:00 a.m. Information may be obtained from Leslie Janca, 1016 LaPosada Drive, Suite 200, Austin, Texas 78752, (512) 458-1016. TRD-9707731.

West Central Texas Council of Governments, School to Work Partnership Meeting, met at 1025 East North 10th Street, Conference Room, Abilene, June 18, 1997 at 1:30 p.m. Information may be obtained from Dennis Gloyna, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD-9707776.

Wood County Appraisal District, Appraisal Review Board, met at 210 Clark Street, Quitman, June 17, 1997 at 9:00 a.m. Information may be obtained from W. Carson Wages or Rhonda Powell, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9707679.

Meetings filed June 16, 1997

Deep East Texas Local Workforce Development Board, Planning/Budget, will meet at City Hall, 300 East Shepherd Street, Room 102,

Lufkin, June 24, 1997 at 1:30 p.m. Information may be obtained from Betty J. Brown, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9707801.

Deep East Texas Local Workforce Development Board, will meet at City Hall, 300 East Shepherd Street, Room 102, Lufkin, June 24, 1997 at 2:30 p.m. Information may be obtained from Betty J. Brown, P.O. Box 1423, Lufkin, Texas 75902, (409) 634-4432. TRD-9707802.

Dewitt County Appraisal District, Appraisal Review Board, will meet at 103 Bailey, Cuero, June 25, 26 and 30, 1997 at 9:00 a.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9707794.

Lake Livingston Water Supply and Sewer Service Corporation, Board of Directors, met at 622 South Washington, Livingston, June 19, 1997 at 10:00 a.m. Information may be obtained from Don LaFitte, 13738 Kingsride, Houston, Texas 77079, (409) 594-0013. TRD-9707851.

Nolan County Central Appraisal District, Appraisal Review Board, met at Nolan County Courthouse, 100 East Third, Sweetwater, June 25, 1997 at 9:45 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9707811.

North Texas Municipal Water District, Board of Directors, will meet at Administration Office, 505 East Brown Street, Wylie, June 26, 1997 at 4:00 p.m. Information may be obtained from James M. Parks, P.O. Box 2408, Wylie, Texas 75098, (972) 442-5405. TRD-9707810.

Northeast Texas Municipal Water District, Board of Directors, will meet at Highway 250 South, Hughes Springs, June 23, 1997 at 10:00 a.m. Information may be obtained from J.W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9707848.

Palo Pinto Appraisal District, Board of Directors, met at 200 Church Avenue, Palo Pinto, June 19, 1997 at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (940) 659-1281. TRD-9707800.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Austin Transportation Study

Travel Surveys Information Advertisement for Sealed Proposals

AUSTIN TRANSPORTATION STUDY IS REQUESTING SEALED PROPOSALS FROM QUALIFIED BIDDERS FOR THE FOLLOWING PROJECT: TRAVEL SURVEYS INFORMATION ON TRAVEL CHARACTERISTICS IN THE AUSTIN TRANSPORTATION STUDY AREA (ATS-06-FY97)

Proposal packets may be obtained from the Austin Transportation Study Office, Municipal Annex, First Floor, 301 West Second Street, Austin, Texas 78701. A pre-proposal conference is scheduled for Wednesday July 2, 1997 at 10:00 a.m. in the First Floor Conference Room of the Municipal Annex.

All proposals must be submitted to the Austin Transportation Study Office at the aforementioned address no later than 4:00 p.m. on Wednesday, July 16, 1997. No late proposals or faxed proposals will be accepted.

For further information, please contact Lee Hoy, Project Manager, (512) 499-6423.

THE AUSTIN TRANSPORTATION STUDY HEREBY NOTIFIES ALL OFFERORS THAT IN REGARD TO ANY CONTRACT ENTERED INTO PURSUANT TO THIS ADVERTISEMENT, MINORITY BUSINESS ENTERPRISES AND HISTORICALLY UNDERUTILIZED BUSINESSES WILL BE AFFORDED EQUAL OPPORTUNITIES TO SUBMIT OFFERS IN RESPONSE TO THIS INVITATION AND WILL NOT BE DISCRIMINATED AGAINST ON THE GROUNDS OF RACE, COLOR SEX, NATIONAL ORIGIN OR DISABILITY IN CONSIDERATION FOR AN AWARD.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707596

Michael R. Aulick
Transportation Planning Director
Austin Transportation Study
Filed: June 11, 1997

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Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC 501. Requests for federal consistency review were received for the following project(s) during the period of June 10, 1997, through June 13, 1997:

FEDERAL AGENCY ACTIONS:

Applicant: Glenn Gates; Location: Gulf Intracoastal Waterway, Maple Street, Lots 6 through 10, Lighthouse Estates Subdivision, Port O'Connor, Calhoun County, Texas; Project Number: 97-0160-F1; Description of Proposed Action: The applicant requests approval to amend and extend the time to complete work previously authorized. The amendment would include enlarging an upland marina basin from 4,600 square feet to 19,000 square feet. Mechanical dredging would be extended to include lots 6, 7, 8 and 9. The amount of material to be dredged would change from 1,500 cubic yards to 4,700 cubic yards. The applicant is requesting an extension of time until December 31, 2000; Type of Application: U.S.C.O.E. permit application #20241(01) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: U.S. Department of Energy; Location: Bryan Mound Oil Storage Facility, east bank of Brazos River Diversion Channel, near Velasco East Levee Station 378 + 71, approximately 2.5 miles south of Freeport, Brazoria County, Texas; Project Number: 97-0161-F1; Description of Proposed Action: The applicant proposes to install higher capacity raw water intake pumps, modify discharge piping, install new butterfly shut-off valves, replace an existing 16-inch diameter sparging/recycle line with a 20-inch line, modify a concrete raw water intake structure platform with tiltable video

camera mounting poles, power cables and cable trays and minor piping and configuration changes; Type of Application: U.S.C.O.E. permit application under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Cargill Incorporated; Location: Buffalo Bayou, Houston Ship Channel, near station 1139 + 67, approximately half a mile east of intersection I-610 and Clinton Road, Harris County, Texas; Project Number: 97-0162-F1; Description of Proposed Action: The applicant proposes to construct a new barge dock, consisting of two mooring dolphins, one receiving platform, access walkway, and two shore anchors dredging and revetment. 32,000 cubic yards of material will be dredged by drag line and deposited in an upland disposal site; Type of Application: U.S.C.O.E. permit application under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Marine Fueling Service, Inc.; Location: 9000 Old Yacht Club Road, Port Arthur, Jefferson County, Texas; Project Number: 97-0163-F1; Description of Proposed Action: The applicant proposes to dredge an abandoned channel in Sabine-Neches canal. Approximately 175,000 cubic yards of material will be dredged and placed in Corps of Engineers Disposal area number 12. Bank stabilization sheet pilings of existing boat slip rip-rap will be placed on the north side of the property; Type of Application: U.S.C.O.E. permit application under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action should be referred to the Coastal Coordination Council for review and whether the action is or is not consistent with the Texas Coastal Management Program goals and policies. All comments must be received within 30 days of publication of this notice and addressed to Ms. Janet Fatheree, Council Secretary, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707806
Garry Mauro
Chairman
Coastal Coordination Council
Filed: June 16, 1997

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Office of the Consumer Credit Commissioner

Notice of Rate Ceiling

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period</u> <u>(Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	06/16/97-06/22/97	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on June 9, 1997.

TRD-9707597
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: June 11, 1997

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Texas Education Agency

Request for Proposals Concerning State Engineering and Recruitment (SENSR) Fund

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals under Request for Proposals (RFP) #707-97-017 from organizations that qualify for exemption from federal income tax under the Internal Revenue Code, §501(c)(3), and that do not distribute net earnings to any private shareholder or other individual. The organization must serve women groups or minority group members who are underrepresented at institutions of higher education

in programs of engineering and applied sciences based on the group's percentage of the Texas population.

Description. The purpose of this project is to allocate funds to eligible organizations to establish or operate educational programs. The programs will support the recruitment of women and members of ethnic minority groups and assist them in preparing for, or participating in programs leading to an undergraduate degree in engineering or science from an institution of higher education. Funding also shall be used to disseminate information concerning career opportunities in engineering and science, as well as information about these programs that are funded under the Texas Education Code, §51.601.

Dates of Project. The State Engineering and Science Recruitment (SENSR) Fund project will be implemented during the 1997-1998 school year. Proposers should plan for a starting date of no earlier than September 1, 1997, and an ending date of no later than August 31, 1998.

Project Amount. For fiscal year 1997-1998, this project will distribute a total amount of approximately \$394,920 subject to the availability of funds and approval of the commissioner of education. Funding will be provided to eligible nonprofit, tax-exempt organizations receiving contributions from other sources. For any one program, funds provided under this RFP may not exceed \$25,000 or 50% of the contributions received by the program in the preceding fiscal year, whichever is less. Initial funding to eligible organizations shall be allocated in proportion to the percentage of women and under-represented minority students or teachers participating in eligible programs. After all grants have been awarded, funds may be allocated to establish or continue to operate eligible programs that have not received any contributions. The total amount budgeted by the contracting project organization for administration must be 11% or less of the total amount budgeted for all selected programs sponsored by that organization. Any money remaining on January 1 of each year may be allocated to a funded organization in proportion to each organization's calculated share as previously prescribed. Contributions are defined as gifts, grants, donations, and market value of in-kind contributions from public and private entities, including the federal government, but excluding state appropriations.

Subsequent project funding will be based on satisfactory progress of first-year objectives and activities and/or general budget approval by the State Board of Education, the commissioner of education, and the Texas legislature.

Selection Criteria. Proposals will first be considered based on the ability of each proposer to satisfy all requirements contained in the RFP. Preference shall be given to programs that stress the development of mathematical and scientific competence. Programs in the social sciences such as psychology and sociology will not be considered. The TEA reserves the right to select from the highest ranking proposals those that would serve the most participants who are women and underrepresented minority group members in the objectives specified. Other program quality indicators are specified throughout the RFP. To be approved for funding, programs offered by eligible organizations must meet certain guidelines. Each program must: (1) use professional volunteers at each level of instruction; (2) require parental involvement; (3) coordinate with public school preparation for scientific and mathematics careers; (4) coordinate with secondary educational institutions; involve organizations of women and minority group members; and provide demonstrated

professional leadership in educational activities for women and minority group members and (5) be compatible with state and federal laws governing education.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any proposal submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate TEA to award a contract or pay any costs incurred in preparing a response.

Requesting the Proposal. A complete copy of RFP #701-97-017 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFP number in your request.

Further Information. For clarifying information about the RFP, contact Walter Tillman, Continuing Education Division, Texas Education Agency, (512) 463-9322.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. (Central Standard Time), Thursday, July 31, 1997, to be considered.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707803

Criss Cloudt

Associate Commissioner for Policy Planning and Research

Texas Education Agency

Filed: June 16, 1997



General Services Commission

State Energy Conservation Office Notice of Request for Proposals

In accordance with the Texas Government Code, Sec. 2305.063, the State Energy Conservation Office ("SECO") of the General Services Commission (the "GSC") invites proposals from organizations wishing to have fiscal responsibility for the Austin Clean Cities Program ("Coalition"). The Austin Clean Cities Program is a locally-based public private partnership, coordinated by the U.S. Department of Energy to expand the use of alternatives to gasoline and diesel fuel. The objectives and/or goals of organizations responding to this Request for Proposal ("RFP") should be similar to those of the Clean Cities Program, which include promoting energy diversity through the use of alternative fueled vehicles, alternative fuel based infrastructures (e.g. vehicle fleets and refueling sites) and improving air quality. The organizations responding to the RFP must be fuel neutral.

SECO funding will be granted according to the following schedule: Year 1 - \$50,000.00; Year 2 - \$33,500.00; Year 3 - \$16,500.00.

The awarded organization will use SECO funding to pay for the Austin Clean Cities Coordinator's (Coordinator) salary, benefits, travel, telephone long distance charges and postage mailing fees. The Coordinator is the primary staff to the Coalition and its subcommittees. SECO funds MAY NOT be used to cover any indirect expenses of the awarded organization, such as accountant or attorney fees. After the first year, the awarded organization and the Austin Clean Cities Coordinator will be expected to raise enough

funds to continue the Coordinator's position on a full-time basis and to cover any program expenses.

Copies of the RFP:

To receive an information package containing requirements and procedures regarding this Request for Proposals contact : Holly Fritsch, Program Director, General Services Commission, State Energy Conservation Office, General Services Commission, Insurance Annex, 221 East 11th Street, Austin, Texas 78701, Phone (512) 463-1931.

Closing Date for Receipt of Proposals:

Proposals must be received by SECO at the following address no later than 4:00 p.m. on July 7, 1997: The State Energy Conservation Office, General Services Commission, Insurance Annex Building, 221 East 11th Street, Austin, Texas 78701. Proposals received after the closing date and time and proposals that are faxed will not be accepted.

Proposals that are hand delivered must be delivered to the 2nd floor of the Insurance Annex Building at 221 East 11th Street, Austin, Texas 78701, to be date stamped.

Basis of Award:

Proposals will be reviewed by a committee of SECO staff and/or other technical advisors (the Review Panel), evaluation scores will be based on the following criteria:

1. Demonstrated Experience (20%): The proposal should describe relevant experience in the requested areas. A statement of qualifications should include previous work.
2. Knowledge of Subject Matter (30%): The proposal should detail knowledge of subject matter in areas such as alternatively fueled vehicles, developing/maintaining infrastructure and improving air quality.

3. Understanding the Scope of Work and Work Plan (40%): The proposal should effectively describe the course of action to be taken in housing and supporting an effective Clean Cities program.
4. Proposed Budget and Ability to Complete Project Deliverables in a Timely Manner (10%): The proposal should include a budget which is reasonable in relation to job requirements. If available, dollar-for-dollar and in-kind match should be included.

Equal Opportunity:

Any contract resulting from this Request for Proposals shall contain provisions prescribed by SECO prohibiting discrimination in employment.

Issued in Austin, Texas, on June 12, 1997.

TRD-9707632
Judy Ponder
General Counsel
General Services Commission
Filed: June 12, 1997



Texas Department of Health

Licensing Action for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

Licensing Actions for Radioactive Materials

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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San Antonio	Southwest Research Institute	L04958	San Antonio	0	05/27/97
Houston	Virus Reference Laboratory	L05020	Houston	0	05/21/97
Plainview	Larry L. Boedeker	L05054	Plainview	0	05/23/97
Wake Forest	Weavexx	L05068	Wake Forest	0	05/29/97
San Antonio	Astex, Inc.	L05071	San Antonio	0	05/29/97

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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Abilene	HENDRICK MEDICAL CENTER	L02433	Abilene	51	05/28/97
Abilene	CLINICAL IMAGING SERVICES LLC	L05006	Abilene	1	05/27/97
Alvin	Amoco Chemical Corporation Chocolate Bayou Plant	L01422	Alvin	47	05/30/97
Arlington	ARLINGTON MEMORIAL HOSPITAL	L02217	Arlington	45	05/29/97
Arlington	METROPLEX HEMATOLOGY ONCOLOGY ASSOCIATES	L03211	Arlington	46	05/22/97
Carrollton	SGS-Thompson Microelectronics	L03930	Carrollton	10	05/30/97
Dallas	Immuno Diagnostic Center	L04365	Dallas	5	05/22/97
Dallas	KAISER FOUNDATION HEALTH PLAN OF TEXAS	L03755	DALLAS	26	05/30/97
De Leon	DELEON HOSPITAL	L03233	Deleon	6	05/29/97
Denison	TEXOMA MEDICAL CENTER	L01624	Denison	44	05/22/97
Denison	TEXOMA MEDICAL CENTER	L01624	Denison	45	05/20/97
DFW Airport	Delta Airlines	L03967	DFW Airport	11	05/23/97
El Paso	COLUMBIA MEDICAL CENTER EAST	L02715	El Paso	26	05/22/97
El Paso	COLUMBIA MEDICAL CENTER EAST	L02715	El Paso	27	05/28/97
Granbury	GRANBURY HOSPITAL CORPORATION DBA HOOD GENERAL HOSPIT	L02903	Granbury	17	05/28/97
Grand Prairie	Lockheed Martin Vought Systems Coporation	L02670	Dallas	22	05/21/97
Henderson	List & Clark Construction Company	L04385	Henderson	5	05/30/97
Houston	KELSEY-SEYBOLD CLINIC PA	L00391	Houston	42	05/28/97
Houston	TWELVE OAKS HOSPITAL	L02432	Houston	24	05/22/97
Houston	Steen NDT Supply, Inc.	L04915	Houston	1	05/27/97
Ingleside	Gulf Coast Inspection, Inc.	L04934	Ingleside	2	05/29/97
La Porte	Dow Chemical Company U S A	L00510	La Porte	57	05/27/97
Lewisville	LEWISVILLE MEMORIAL HOSPITAL	L02739	Lewisville	18	05/30/97
Longview	GOOD SHEPHERD MEDICAL CENTER	L02411	Longview	52	05/22/97
Lubbock	JOE ARRINGTON CANCER RESEARCH AND TREATMENT CENTER	L04881	Lubbock	8	05/28/97
Missouri City	FORT BEND HOSPITAL INC	L03457	MISSOURI CITY	15	05/29/97
Odessa	X-Cel Group, Inc.	L03548	Odessa	39	05/30/97
Orange	CENTRAL PHARMACY SERVICES INC DBA ORANGE CENTRAL PHAR	L04785	Orange	6	05/29/97

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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San Angelo	SHANNON MEDICAL CENTER	L02343	San Angelo	25	05/19/97
San Antonio	SOUTH TEXAS CARDIVASCULAR CONSULTANTS PLL	L03833	San Antonio	15	05/22/97

Texas City	Industrial Fabricators, Inc.	L04935	Texas City	3	05/20/97
Throughout Texas	Tuboscope Vetco International Inc.	L00287	Houston	100	05/23/97
Throughout Texas	Halliburton Energy Services	L00442	Houston	87	05/22/97
Throughout Texas	TEXAS A & M UNIVERSITY	L00448	College Station	90	05/27/97
Throughout Texas	Schlumberger Technology Corporation	L00764	Sugar land	72	05/16/97
Throughout Texas	Southwest Research Institute	L00775	San Antonio	55	05/27/97
Throughout Texas	Finnigan Corporation	L01186	Austin	36	05/19/97
Throughout Texas	E I Du Pont de Nemours & Company, Inc.	L01753	Ingleside	31	05/28/97
Throughout Texas	Maxim Technologies, Inc.	L01934	Houston	57	05/16/97
Throughout Texas	Houston Lighting and Power	L02063	Houston	56	05/16/97
Throughout Texas	GCT Inspection, Inc.	L02378	South Houston	51	05/21/97
Throughout Texas	Raytheon Engineers & Contractors, Inc.	L02662	Friendswood	64	05/27/97
Throughout Texas	Non-Destructive Inspection Corporation	L02712	Lake Jackson	50	05/27/97
Throughout Texas	Non-Destructive Inspection Corporation	L02712	Lake Jackson	51	05/21/97
Throughout Texas	Continental Airlines, Inc.	L02718	Houston	24	05/29/97
Throughout Texas	City of Bryan	L03002	Bryan	9	05/21/97
Throughout Texas	METCO	L03018	Houston	67	05/20/97
Throughout Texas	METCO	L03018	Houston	68	05/29/97
Throughout Texas	R-MCO	L03145	Refugio	10	05/22/97
Throughout Texas	TERRA-MAR	L03157	Houston	25	05/21/97
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Odessa	54	05/29/97
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Odessa	55	05/21/97
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	57	05/21/97
Throughout Texas	Corpus Christi Inspection and Engineering, Inc.	L04379	Houston	48	05/22/97
Throughout Texas	Desert Industrial X-Ray	L04590	Odessa	13	05/21/97
Throughout Texas	El Paso Inspection	L04599	El Paso	13	05/22/97
Throughout Texas	Wren Oilfield Services, Inc.	L04690	White Oak	3	05/22/97
Throughout Texas	C & M Wireline Service, Inc.	L04695	Snyder	1	05/22/97
Throughout Texas	Rodriguez Engineering Consulting	L04700	Austin	4	05/16/97
Throughout Texas	Highlander Environmental Corp.	L04917	Midland	3	05/30/97
Throughout Texas	Professional Service Industries, Inc.	L04946	San Antonio	1	05/16/97
Tyler	EAST TEXAS MEDICAL CENTER	L00977	Tyler	70	05/28/97
Tyler	TRINITY MOTHER FRANCES	L01670	Tyler	63	05/29/97
Waco	Texas State Technical College at Waco	L01926	Waco	30	05/28/97

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Houston	Lead Based Paint Testing Services, Inc.	4586	Houston	4	05/30/97
Azle	HARRIS METHODIST NORTHWEST	L03230	Azle	19	05/22/97
Beaumont	SYNCOR INTERNATIONAL CORPORATION	L02987	Beaumont	28	05/28/97
Dallas	NORTH TEXAS HEART CENTER PA	L04608	Dallas	14	05/20/97
El Paso	BRK Brands, Inc.	L03725	El Paso	8	05/27/97
Houston	WHMC INC DBA COLUMBIA WEST HOUSTON MEDICAL CENTER	L02224	Houston	35	05/29/97
Lufkin	Champion International Corporation	L03870	Lufkin	9	05/29/97

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Tatum	TU Electric Martin Lake Plant	L04593	Tatum	3	05/21/97

Throughout Texas	Woodward-Clyde Consultants	L00827	Houston	24	05/23/97
Throughout Texas	MGM Well Services, Inc.	L01559	Corpus Christi	17	05/27/97
Throughout Texas	Longview Inspection, Inc.	L01774	La Porte	124	05/23/97
Throughout Texas	MASI HEALTHCARE SERVICES	L03212	Fort Worth	20	05/29/97

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Austin	Texas Department of Public Safety	L00902	Austin	16	05/27/97
Dallas	Isolite Corporation, Inc.	L04179	Dallas	3	05/27/97
Galveston	SAINT MARYS HOSPITAL	L00138	Galveston	37	05/21/97
La Porte	Western Stress, Inc.	L04084	La Porte	13	05/22/97
Throughout Texas	Columbia Scientific Industries	L01381	Austin	51	05/27/97
Throughout Texas	Inland Laboratories, Inc.	L04620	Austin	1	05/19/97
Throughout Texas	TJ Lambrecht Construction, Inc.	L04748	DFW Airport	2	05/16/97
Throughout Texas	Milam Testing Services	L04949	Queen City	1	05/30/97

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Throughout Texas	Goolsby Testing Laboratories, Inc.	L03115	Humble	0	05/30/97

EXEMPTIONS ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Bryan	Poretics Corporation	L04065	Bryan	0	05/21/97
Deer Park	Akzo Chemicals Inc	L04372	Deer Park	0	05/21/97
Freeport	Brazos Pipe & Steel Fabricators Inc	L02186	Freeport	0	05/21/97
Midland	Isotech Laboratories, Inc.	L04283	Midland	0	05/21/97
Orange	Bayer	L00976	Orange	0	05/21/97
Rockdale	TU Electric - Sandow Station	L04075	Rockdale	0	05/21/97
Seguin	Structural Metals Inc	L02188	Seguin	0	05/21/97
Throughout Texas	Berry Fabricators	L01575	Corpus Christi	0	05/21/97
Throughout Texas	Radiation Consultants Inc	L02179	Deer Park	0	05/21/97
Throughout Texas	Chevron USA Incorporated	L02669	El Paso	0	05/21/97
Throughout Texas	BJ Services Company U S A	L02684	Houston	0	05/21/97
Throughout Texas	Big State X-Ray	L02693	Odessa	0	05/21/97
Throughout Texas	R-MCO	L03145	Refugio	0	05/21/97
Throughout Texas	Norton Chemical Process Products	L04042	Houston	0	05/21/97
Throughout Texas	Applied Industrial Materials Corporation	L04051	Texas City	0	05/21/97
Throughout Texas	Albert H Halff Associates Incorporated	L04074	Dallas	0	05/21/97

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and

experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on June 10, 1997.

TRD-9707555
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 10, 1997

Notice of Public Hearing

A public hearing will be held to receive public comments on the proposed application for Title V funds for the provision of abstinence education, at 9:00 a.m., June 26, 1997, at the Texas Department of Health, Room K100, 1100 W. 49th Street, Austin, Texas.

Comments regarding this proposal may be submitted to Jacquelyn McDonald, Director, Division of Public Health Nutrition and Training, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3168, Telephone (512) 458-7444.

Issued in Austin, Texas, on June 13, 1997.

TRD-9707793
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 16, 1997

Health and Human Services Commission

Public Notice

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 97-02, Amendment Number 526.

The amendment revises the State Plan to reimburse nursing facilities under a voucher system for hardware and software costs incurred to automate the MDS2.0 resident assessment form and permit electronic submittal to HCFA. The amendment is effective February 1, 1997.

If additional information is needed, please contact Pam McDonald, Texas Department of Human Services, at (512) 438-4086.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707641
Marina S. Henderson
Executive Deputy Commissioner
Health and Human Services Commission
Filed: June 12, 1997

Texas Higher Education Coordinating Board

Notices of Meetings

The Primary Care Residency Advisory Committee will meet on Thursday, June 26, 1997 from 10:00 a.m. till 3:00 p.m. The meeting will be held at the Coordinating Board, 7700 Chevy Chase Drive, Building 1 Room 1.100A. The agenda is as follows: Elect Committee Chair and Vice Chair; Review Fiscal Year 1997 Funding; Consideration of Funding Options; Develop a Funding Recommendation for Consideration by the Texas Higher Education Coordinating Board in July; and Other Business. For additional information please contact Stacy Silverman at (512) 483-6540.

Issued in Austin, Texas, on June 12, 1997.

TRD-9707725
James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board
Filed: June 13, 1997

The Statewide Meeting of Physical Therapy Administrators and Advisors will be held on Friday, June 27, 1997 from 8:00 a.m. till 5:00 p.m. The meeting will be held at the Coordinating Board, 7700 Chevy Chase Drive, Building 1 Room 1.100. The agenda is as follows: Setting the agenda-Drs. Marco Montoya, Gordon Green and Rumaldo Z. Jaurez; Supply and Demand for Physical Therapists (PT) in Texas; The Need for More Physical Therapy Programs in Texas; Inconsistent Admission Standards Across PT Programs in Texas: GPA Requirements; GRE Requirements; Is a Bachelor's Degree Required for Entry into an MPT (Master's of Physical Therapy) program? Should Undergraduates with Junior Status be Admitted into an MPT program? What is the position on these issues of the Commission on Accreditation in Physical Therapy Education (CAPTE) on these issues? Recruitment of Minority Faculty and Students; Statewide Issues of Transferability of Course Work Among Institutions; The Need for a Clearinghouse for PT

Student Applications; and Conclusions and Recommendations. For additional information please contact Dr. Alfred Maldonado at (512) 483-6540.

Issued in Austin, Texas, on June 12, 1997.

TRD-9707726

James McWhorter

Assistant Commissioner for Administration
Texas Higher Education Coordinating Board
Filed: June 13, 1997

Texas Historical Commission

Recommended Historic Designs: The "Six Flags Over Texas"

Suggested Motion:

Through its general powers and duties granted in the Texas Government Code, §442.005(a), the Texas Historical Commission (THC) approves the designs, shown as Exhibit A of this notice, for the six national flags of Texas history. THC has reviewed these designs and determined that they represent the appropriate flags of the six nations at the time of each claim to this soil, with the exception of the current flag of the United States of America. THC urges that these standard designs be adopted for display in all appropriate locations. THC gratefully acknowledges the assistance of Charles Adkin Spain and Dr. Whitney Smith for their research of these designs.

Background:

The "Six Flags" sets purchased by the state, businesses, and individuals are generally the flags manufactured in mass quantities by the six largest U.S. flag manufacturers (Annin, CF, Collegeville, Dettra, J.C. Schultz, and Valley Forge). Two of the flags in these sets, Spain and Mexico, are historically inaccurate because they do not represent a flag that flew over Texas during the time those two nations claimed sovereignty over Texas. The French flag is also oftentimes historically incorrect. It is, however, economically infeasible to display the historically correct flags because the flags would have to be custom manufactured.

The only practical way to purchase a correct "Six Flags" set is for the State, acting through the commission, to specify the proper designs of the "Six Flags" and to request the major flag manufacturers to make this historically correct set once existing supplies have been sold.

The art for the proposed designs has been provided by Dr. Whitney Smith of the Flag Research Center in Winchester, Massachusetts, who is the world's leading expert on flags. Dr. Smith was an adviser to the State Preservation Board and Office of the Secretary of State when the reverse of the state seal was redesigned in 1991-1992, and an adviser to the Texas Department of Transportation when it featured color art of the "Six Flags" in the travel publication *A Quick Look at Texas*. The proposed designs are basically the same designs that appear in the current version of the reverse of the state seal. Dr. Smith has agreed to allow the commission to use the art for the proposed designs as long as a copyright acknowledgment is published in the *Texas Register*.

Kingdom of Spain: Spain has had four significant flags during its occupation of the New World. The royal banner of Castile and Leon, bearing two lions and two castles, was used as a state flag from circa 1230 to circa 1516. This flag, although widely used in "Six Flags" displays, predates any Spanish presence in Texas: the first Spanish mission, Ysleta Mission in present El Paso, was established in 1681.

From 1516 to May 28, 1785, Spain used a state flag consisting of a modified red saltire on white to signify the House of Burgundy. A variant of the state flag existed from 1580 to 1640 that depicted the complete Spanish coat of arms on a white field. Although displaying the Burgundian saltire as a "Six Flag" would be historically correct, few people would recognize the flag.

King Charles III established the familiar Spanish flag containing horizontal stripes of red-gold-red and the simple arms of Castile and Leon as the Spanish state flag on land effective March 8, 1793, and this flag was used until April 27, 1931. This flag appears in the reverse of the Texas state seal and would be the logical choice for inclusion in the "Six Flags."

Kingdom of France: The flag of France that was allegedly carried by Rene Robert Cavelier, Sieur de la Salle in 1685, was probably a plain white flag strewn with fleurs-de-lys. This flag (circa 1643 to October 31, 1790) was a simplified version of the French state flag that bore the entire royal arms superimposed over numerous fleurs-de-lys strewn on a white field. Another French flag frequently (and incorrectly) included in the "Six Flags" contains three or more fleurs-de-lys on a blue field; this was the French state flag from circa 1370 to circa 1600. The fleurs-de-lys flag on a white field without the royal arms appears in the reverse of the Texas state seal. Technically, the heraldic description of the flag is "white, seme [strewn] of gold fleurs-de-lys," so the actual number of fleurs-de-lys is indeterminate and they would bleed off the four edges of the flag.

United Mexican States: In April 1823, Mexico adopted its first republican flag, which was used until 1863. This flag is similar to the current Mexican flag with vertical stripes of green-white-red. Both flags contain an eagle holding a serpent in its mouth and standing on a nopal, or cactus, but the current Mexican flag depicts a stylized Aztec eagle rather than the natural eagle in the 1823 flag. The 1823 Mexican flag appears in the reverse of the Texas state seal.

Republic of Texas: Texas had two official national flags for use on land during its existence: the 1836 national standard and the 1839 national flag that became the state flag. Some authorities also erroneously claim that Lorenzo de Zavala designed a Republic of Texas flag (usually portrayed as a blue field with white star of five points central and with the letters "T-E-X-A-S," one letter between each star point).

The first official flag for use on land, the "National Standard of Texas," was adopted by the Congress and approved on December 10, 1836. It consisted of an azure ground with a large golden star central. This flag, known as David G. Burnet's flag, served as the national flag until January 25, 1839.

The second official flag for use on land, the Lone Star Flag, was adopted by the Texas Congress and approved on January 25, 1839: "[T]he national flag of Texas shall consist of a blue perpendicular stripe of the width of one third of the whole length of the flag, with a white star of five points in the center thereof, and two horizontal stripes of equal breadth, the upper stripe white, the lower red, of the length of two thirds of the whole length of the flag." This flag later became the state flag.

Although it would be historically correct to display David G. Burnet's flag in the "Six Flags," the Lone Star Flag appears in the reverse of the Texas state seal and would be the logical choice for inclusion in the "Six Flags."

Confederate States of America: The Confederate States of America had three principal flag designs during its existence. The first, known as the Stars and Bars, was chosen by a legislative committee of the provisional government as the national flag and was raised over the capitol in Montgomery, Alabama on March 4, 1861. The flag consisted of: "a red field with a white space extending horizontally through the center, and equal in width to one-third the width of the flag. The red space above and below to be the same as the white. The union blue extending down through the white space and stopping at the lower red space. In the center of the union a circle of white stars corresponding to the number with the States in the Confederacy." The Stars and Bars was never adopted by legislation, but served as the Confederate flag for more than two years. Texas was the seventh state to join the Confederacy.

Because of the Stars and Bars's similarity with the United States flag, it was unsatisfactory for use as a battle flag. The most famous Confederate battle flag was the battle flag of the Army of Northern Virginia, a square having a red ground with a blue saltire bordered with white and emblazoned with white five-pointed stars corresponding in number to that of the Confederate States. The design of this battle flag was used in the second national flag of the Confederacy, the Stainless Banner. This flag flew from May 1, 1863, to March 4, 1865, and consisted of a white field with the battle flag of the Army of Northern Virginia in the canton.

The Stainless Banner was revised on March 4, 1865, in part because naval officers objected that the flag looked both like a flag of truce and the British White Ensign. The revision added a vertical red stripe to the flag's fly. This third national flag was short-lived as the Confederacy surrendered in April 1865.

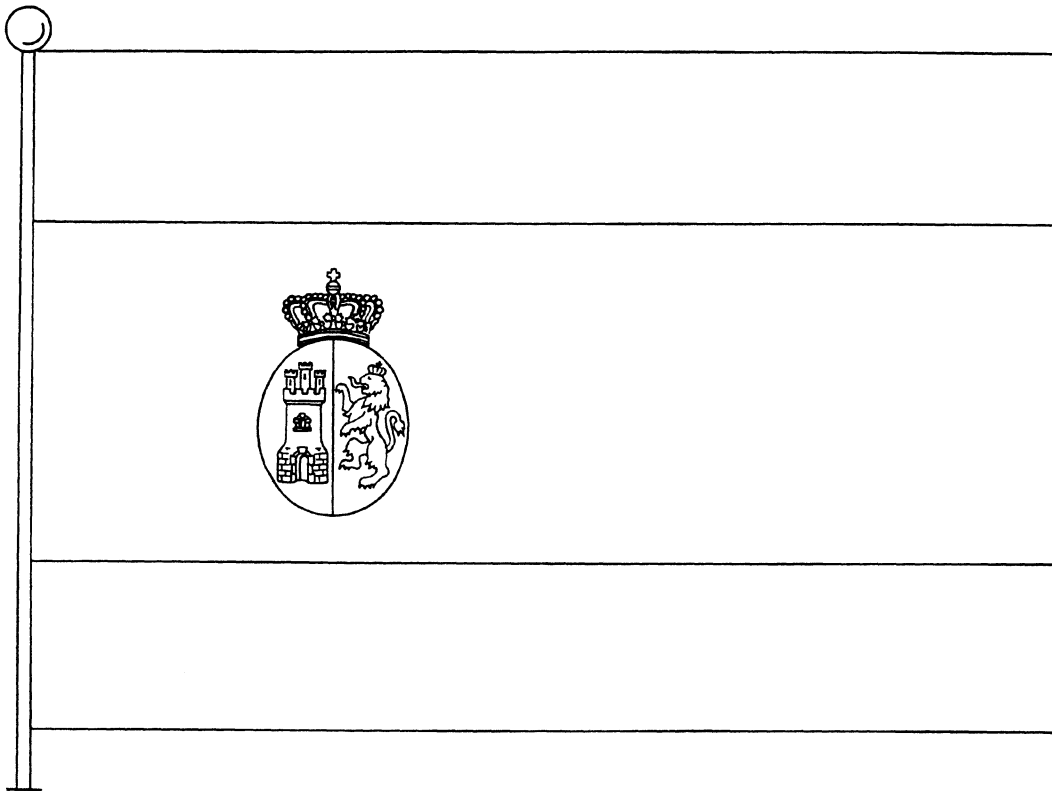
Another Confederate flag that is sometimes displayed in Texas today is a rectangular version of the battle flag of the Army of Northern Virginia. This flag was the Confederate naval jack as it appeared after May 26, 1863, and was similar to the battle flag of the Army of Tennessee that was issued in 1864.

It would be historically correct to display either the seven-star Stars and Bars, the Stainless Banner, or the 1865 revision of the Stainless Banner in the "Six Flags." The Texas State Seal Advisory Committee choose to use the seven-star Stars and Bars when the committee updated the design of the reverse of the Texas state seal in 1992 because the Stars and Bars is the most recognizable and least inflammatory of the three Confederate Flags. The seven-star Stars and Bars would be the logical choice for inclusion in the "Six Flags."

United States of America: The last of the "Six Flags" to fly over Texas is the flag of the United States. Texas entered the Union on December 29, 1845, as the 28th state. The 27 star United States flag was first raised in Texas on February 19, 1846, when the state government was organized in Austin. The 28 star United States flag flew only from July 4, 1846, to July 3, 1847, after which Iowa's admission necessitated the addition of another star. A 28 star United States flag appears on the reverse of the Texas state seal to avoid the necessity of changing the reverse should another state be admitted in the future, but it would make economic sense to use the current United States flag in the "Six Flags."

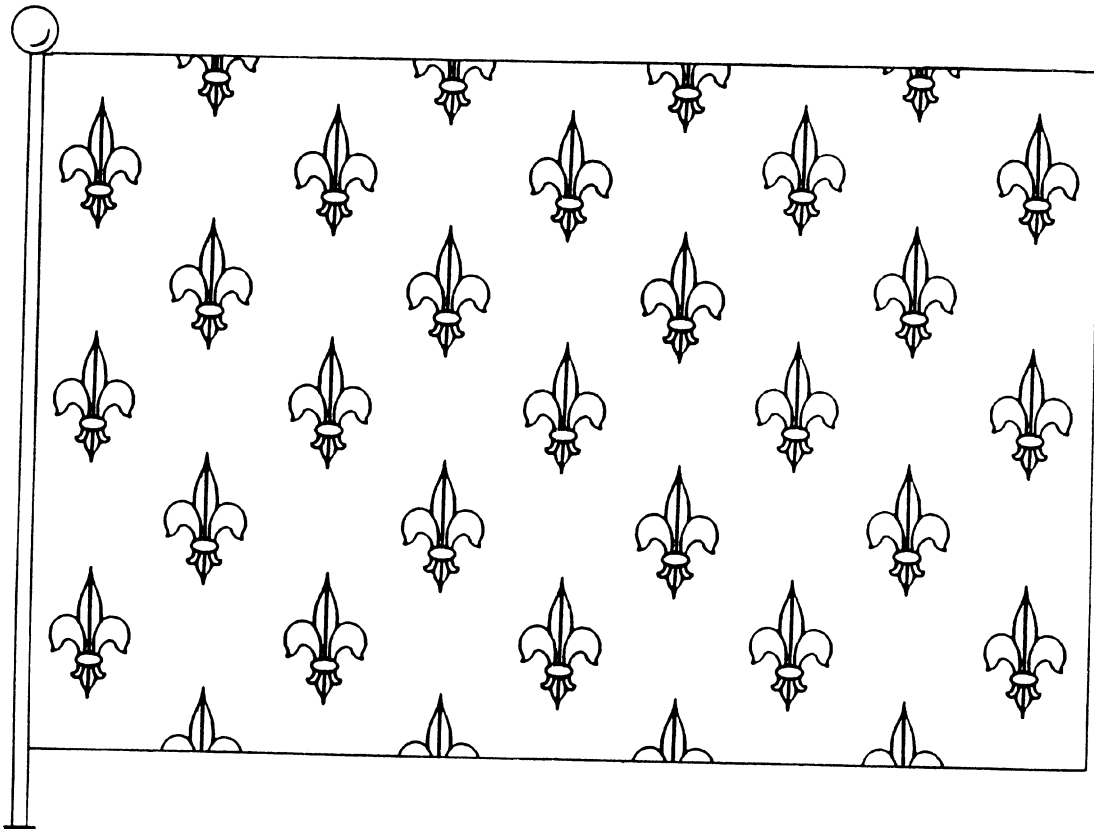
The "Six Flags Over Texas" are shown in the following Exhibit A.

EXHIBIT A



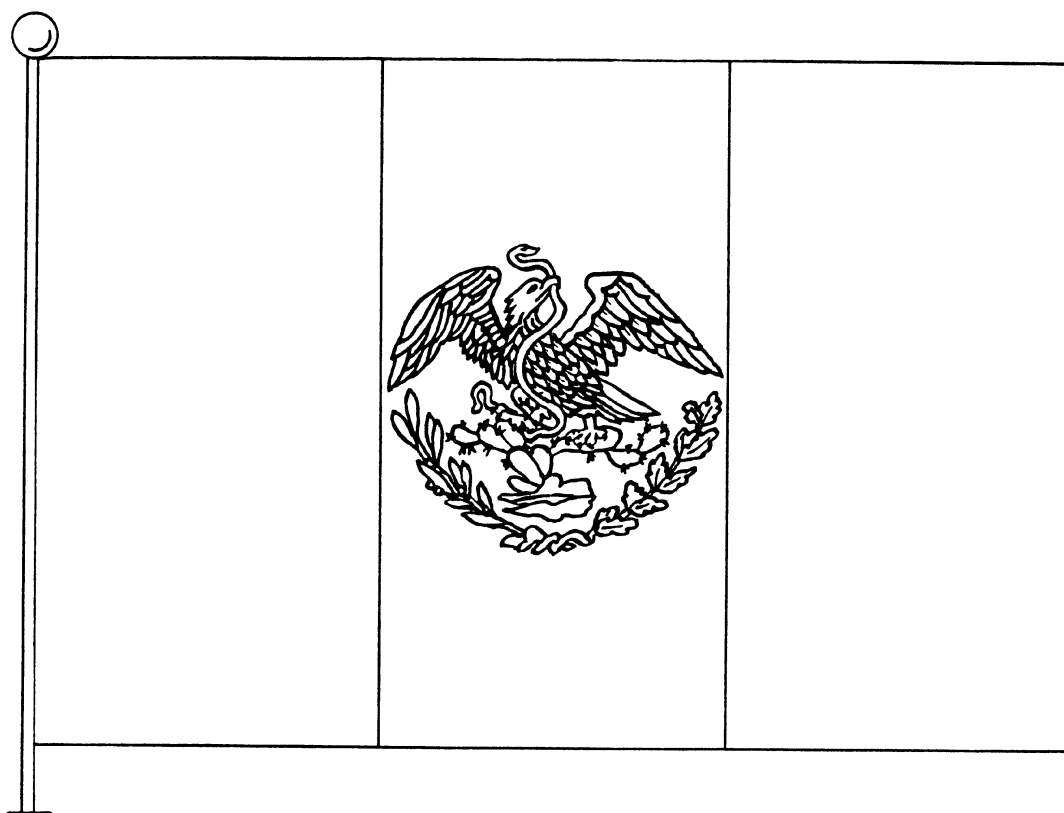
KINGDOM OF SPAIN
March 8, 1793 to April 27, 1931

© 1975 Whitney Smith. Used by permission.



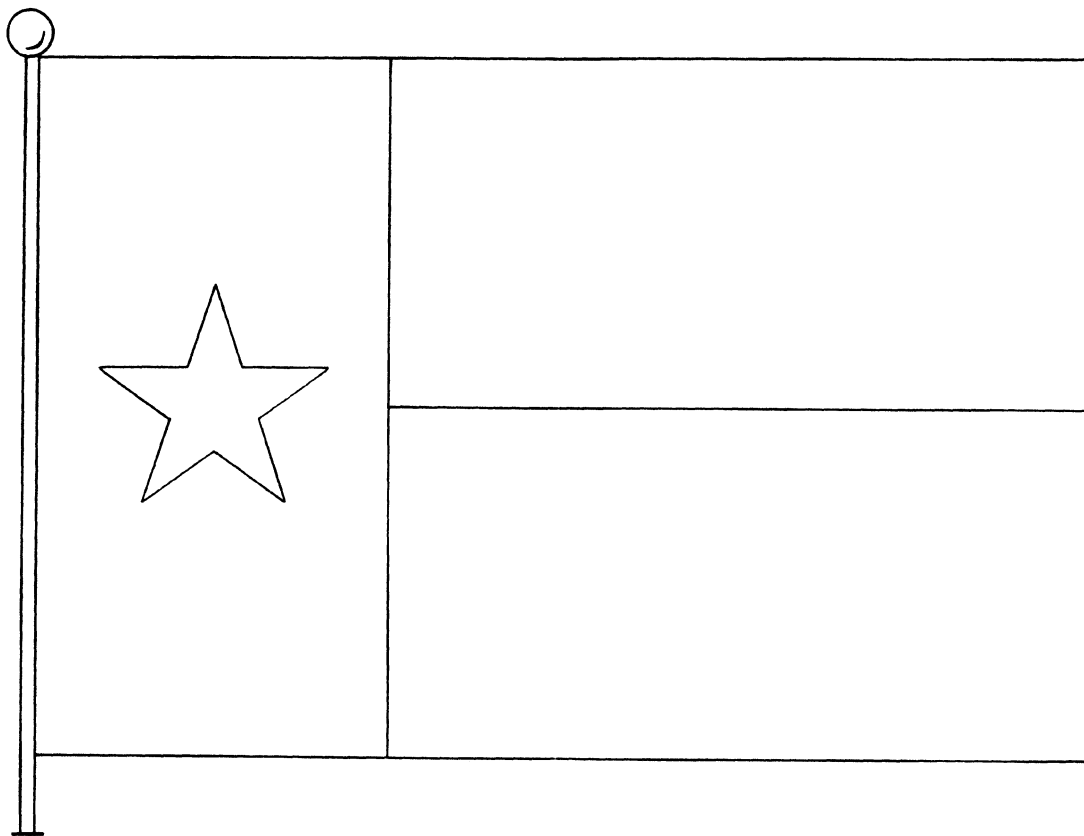
KINGDOM OF FRANCE
circa 1643 to October 31, 1790

© 1996 Whitney Smith. Used by permission.



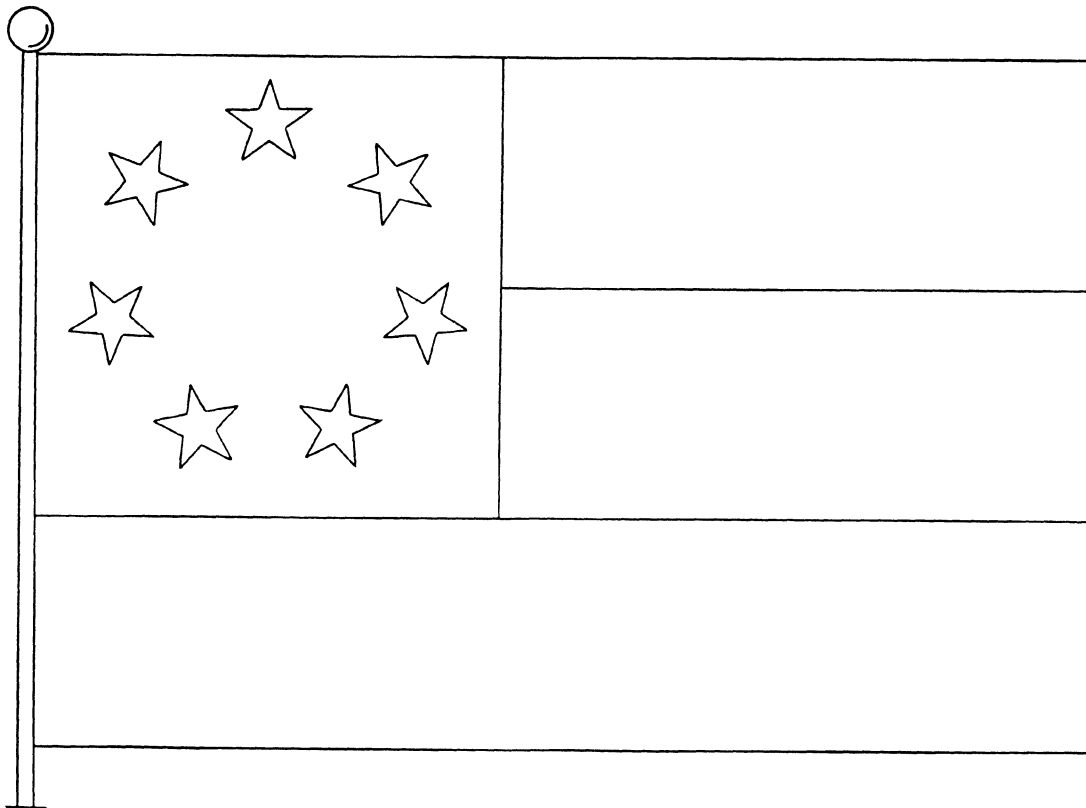
UNITED MEXICAN STATES
April 1823 to 1863

© 1975 Whitney Smith. Used by permission.



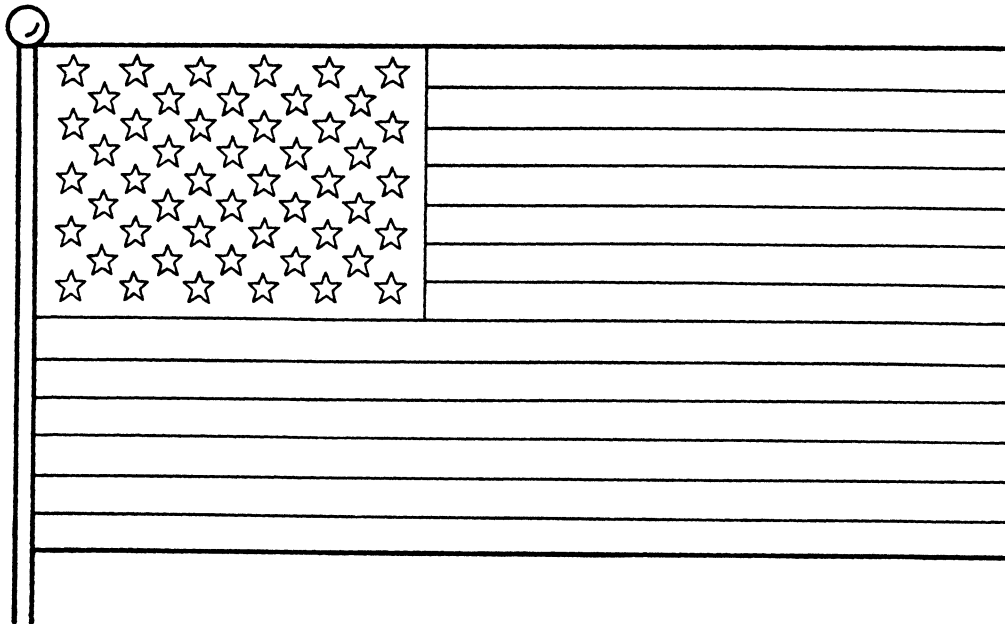
**REPUBLIC OF TEXAS/STATE OF TEXAS
January 25, 1839 to present**

© 1975 Whitney Smith. Used by permission.



**CONFEDERATE STATES OF AMERICA
March 4, 1861 to May 1, 1863**

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**UNITED STATES OF AMERICA
July 4, 1960 to present**

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Texas Historical Commission
Filed: June 16, 1997



Texas Department of Housing and Community Affairs

Notice of Administrative Hearing-MHD1997001189-M

Manufactured Housing Division

Thursday, June 26, 1997, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 North Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Oakwood Mobile Homes, Inc. #252 to hear alleged violations that the Respondent violated the Act, §7(k)(6) and the Rules, §§80.28(a), 80.123(a) and 80.203(b) by not properly submitting Monthly Installation Summary Reports showing the number of homes installed, Monthly Sales Summary Report showing the number of homes sold and Used Home Inventory Summary Reports showing the number of homes which have been taken into inventory during the preceding months. SOAH 332-97-1151. Department MHD1997001189-M.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707814

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 16, 1997



Notice of Administrative Hearing-MHD1997001401-T

Manufactured Housing Division

Thursday, June 26, 1997, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 North Congress, 11th Floor, Suite 100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Lewisville Mobile Homes, Inc. to hear alleged violations that the Respondent violated the Act, §§7(k)(3)(6) and 8(d) and the Rules, §80.123(a) by selling a used manufactured home without the appropriate, timely transfer of a good and marketable title within 30 days after the date that the transfer of ownership was effective and not properly submitting Sales Summary Report showing all of the homes sold. SOAH 332-97-1152. Department MHD1997001401-T.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707812

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 16, 1997



Notice of Administration Hearing-MHD1997000399-O

Manufactured Housing Division

Tuesday, July 1, 1997, 9:00 a.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 North Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Charles Rugen to hear alleged violations that the Respondent violated the Act, §6(f) by advertising a manufactured home for sale without possessing a certificate or document of title that shows the Respondent to be the owner of the home. SOAH 332-97-1153. Department MHD1997000399-O.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707813

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 16, 1997



Notice of Administrative Hearing-MHD1997001013-D

Manufactured Housing Division

Tuesday, July 1, 1997, 9:00 a.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 North Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Dinonicio Luna dba Dinonicio Luna Mobile Home aka Luna Mobile Home Service to hear alleged violations of the Act, §§3(10), 7(d), 17(b) and Rules §80.125(e) regarding obtaining, maintaining or possessing a valid installer's certificate of registration. SOAH 332-97-1154. Department MHD1997001013-D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707815

Larry Paul Manley
Executive Director

Texas Department of Housing and Community Affairs
Filed: June 16, 1997



Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for admission in Texas for American Summit Insurance Company, a foreign fire and casualty company. The home office is in Minneapolis, Minnesota.

Application for admission in Texas for American Contractors Indemnity Company, a foreign fire and casualty company. The home office is in Los Angeles, California.

Application for a name change in Texas for Pro-West Insurance Company, a foreign fire and casualty company. The proposed new name is Progressive West Insurance Company. The home office is in Rancho Cordova, California.

Application for a name change in Texas for Abeille General Insurance Company, Inc., a foreign fire and casualty company. The proposed new name is AIG National Insurance Company. The home office is in New York, New York.

Application for a name reservation in Texas for M/Care HMO, a domestic health maintenance organization. The home office is in Houston, Texas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on June 13, 1997.

TRD-9707788

Bernice Ross
Deputy Chief Clerk

Texas Department of Insurance
Filed: June 13, 1997



Notice

The public hearing pertaining to Benchmark Rates for Title Insurance, originally scheduled before the Commissioner of Insurance for June 24, 1997 at 9:00 a.m. under Docket Number 2279, has been rescheduled to November 4, 1997, at 9:00 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas.

Notice of the hearing was published in the January 10, 1997, issue of the Texas Register (21 TexReg 404).

Issued in Austin, Texas, on June 12, 1997.

TRD-9707691

Bernice Ross
Deputy Chief Clerk
Texas Department of Insurance
Filed: June 13, 1997



Notice of Public Hearing

The Commissioner of Insurance, at a public hearing under Docket Number 2296 scheduled for July 24, 1997 at 9:00 a.m., in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a Staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt amendments to Rule 41 to change the premium charge for attachment of appropriate Financial Responsibility Certification endorsements, and to reword those endorsements (571 and TE 99 82A). Staff's petition (Reference Number A-0697-18-I) was filed on June 11, 1997.

Staff proposes to amend Manual Rule 41 to change the premium charge for attachment of appropriate Financial Responsibility Certification endorsements to a flat \$50 charge, as well as to reword those endorsements (571 and TE 99 82A, to be redesignated as 571A and TE 99 82B, respectively). The \$50 amount would replace the current charge, which consists of 10% of the basic limits bodily injury and property damage liability premium that would be paid by the insured for whom the certificate is filed.

Under the Texas Motor Vehicle Safety Responsibility Act, the Department of Public Safety (DPS) under some circumstances must require a vehicle operator to provide "evidence of financial responsibility." This may be done by filing with DPS the certificate of an insurance company certifying that an auto liability insurance policy is in effect for the benefit of that operator. Such a certificate is called an SR-22, which is referenced in Manual Endorsements 571 and TE 99 82A. Each endorsement provides for an additional premium charge and sets forth the insurer's obligation to give prior written notice to DPS before cancellation or termination of the policy.

When Rule 41 was adopted to allow recovery of administrative costs, basic premiums were much lower, and charges for attachment of Financial Responsibility Certification endorsements were also much lower, as the latter charges were (and are) based upon the former. As basic premiums have risen sharply, so have the charges for attachments of these endorsements, although based on Staff's analysis, no more work is involved in such attachment than initially. Furthermore, the majority of SR-22 filings are processed and filed by the Texas Automobile Insurance Plan Association, not the assigned insurer. The direct cost to the assigned insurer, in such cases, is limited to the filing of policy cancellation notice.

When an insurer files an SR-22 for an insured, the appropriate endorsement is issued, and an additional premium charge is made, being "10% of basic limits bodily injury and property damage liability total policy premium...."

Examples in Staff's petition show how a policyholder can be severely affected by the provisions of Rule 41, although administrative costs for the insurance company apparently do not vary for attachment of such an endorsement for any affected driver. Staff's opinion is that a flat \$50 charge per driver should be adequate reimbursement of

an insurer's administrative expenses for certification with DPS, and attachment of the appropriate endorsement.

Staff proposes that Rule 41 be amended accordingly, and that Endorsements 571 and TE 99 82A also be amended to reflect this change. The amendment of those endorsements would consist partially of eliminating references to Bodily Injury Liability and Property Damage Liability, as the premiums for those coverages would no longer be relevant. In order to avoid the possible need for amending these endorsements in the future because of inflation, Staff recommends leaving a blank space in each endorsement for the charge to be made.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0697-18-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on June 13, 1997.

TRD-9707791
Texas Department of Insurance
Deputy Chief Clerk
Texas Department of Insurance
Filed: June 13, 1997



The Commissioner of Insurance, at a public hearing under Docket Number 2297 scheduled for July 24, 1997 at 9:00 a.m. in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt new and/or adjusted 1995-1998 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0697-19-I) was filed on June 11, 1997.

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the listed 1995-1998 model vehicles.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0697-19-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on June 13, 1997.

TRD-9707790
Bernice Ross
Deputy Chief Clerk
Texas Department of Insurance
Filed: June 13, 1997



Texas Natural Resource Conservation Commission

Notice of Application for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of June 11, 1997 thru June 13, 1997.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

To request a hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the applicant and the permit number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; (5) the location of your property relative to the applicant's operations; and (6) your proposed adjustments to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711. Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

NORTH TEXAS MUNICIPAL WATER DISTRICT, P.O. Box 2408, Wylie, Texas 75098, The wastewater treatment facilities are 200 feet east of Los Rios Boulevard, approximately 700 feet north of Farm-to-Market Road 544, one mile west of Farm-to-Market Road 544 crossing of Rowlett Creek and approximately 3.5 miles east of the City of Plano in Collin County, Texas, renewal, 10363-01.

OXY PETROCHEMICALS, INC., 1501 McKinzie Road, Corpus Christi, Texas 78410, The applicant operates the Oxychem Petrochemicals plant which primarily produces ethylene, propylene, benzene and 1,3-butadiene, The wastewater treatment facilities are at 1501 McKinzie Road which is approximately 1.3 miles east of the State Highway 44/Farm-to-Market Road 24 intersection, and approximately four miles east of the City of Robstown, Nueces County, Texas, amendment, 02075.

Issued in Austin, Texas, on June 13, 1997.

TRD-9707757

Eugenia K. Brumm, Ph. D.
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: June 13, 1997



Notice of Date Extension

The Texas Natural Resource Conservation Commission is announcing that the due dates for submitting the Toxics Release Inventory (TRI) report (Form R) and Source Reduction and Waste Minimization Annual Progress Report (SR/WM Report) have been extended from July 1, 1997 to August 1, 1997. The extensions will align due dates of these two state and federal reporting requirements, which will reduce the burden to the regulated community and result in higher quality data overall.

The TRI reports are required under the federal Emergency Planning and Community Right-to-Know Act (EPCRA), §313 and the State Health and Safety Code, Chapter 370 (Toxic Chemical Release Reporting). The Environmental Protection Agency (EPA) recently authorized a similar extension under the federal program in the May 27, 1997 issue of the *Federal Register* (62 FR 101). The SR/WM Report is required under 30 TAC Chapter 335, Subchapter Q, §§335.471-335.480 and the Health and Safety Code, Chapter 361. The SR/WM Report is based on data in the TRI report.

Unless another announcement is forthcoming, this due date extension is only for submittals due in 1997.

Facilities who have previously filed Toxics Release Inventory Form R or Form A reports will be notified of this extension by letter prior to July 1, 1997. For further information on the Toxics Release Inventory date extension, please call Becky Kurka at (512) 239-3100. For further information on the SR/WM Annual Progress Report date extension, please call Emily Coyner at (512) 239-3100.

Issued in Austin, Texas, on June 12, 1997.

TRD-9707642

Kevin McCalla
Director, Legal Division

Texas Natural Resource Conservation Commission
Filed: June 12, 1997



Notice of Public Hearing (Chapter 101)

Notice is hereby given that under the requirements of Texas Health and Safety Code, §382.017; Texas Government Code, Subchapter B, Chapter 2001; and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 101 and the SIP.

The commission proposes amendments to §101.1, concerning Definitions, §101.24, concerning Inspection Fees, and §101.27, concerning Emissions Fees. The proposed amendments change the definition of "account" to allow it to remain the key identifier in the air permit data base, conform language in several sections to the new definition, make certain administrative changes that reflect classification changes in the ozone attainment status of the Beaumont/Port Arthur area, and update several cross-references.

A public hearing on the proposal will be held July 15, 1997, at 10:00 a.m. in Room 254S of TNRCC Building E, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 97124-101-AI. Comments must be received by 5:00 p.m., July 24, 1997. For further information, please contact Brad Toups, (512) 239-1872 or Beecher Cameron, Air Policy and Regulations Division, (512) 239-1415.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707804

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: June 16, 1997



Provisionally-Issued Temporary Permits to Appropriate State Water

Listed below are permits issued during the period of June 13, 1997.

Application Number TA-7822 by NOTTI Pipe Line Company for diversion of 75 acre-feet in a 1-year period for industrial (hydrostatic testing) purposes. Water may be diverted from the Sabin River, approximately 3.8 miles southwest of Orange, Orange County, Texas and approximately 2.13 miles east-southeast of the intersection of FM. 105 and FM. 1006 at the intersection of the barge canal and the Sabine River Basin.

Application Number TA-7823 by CCE, Inc. for diversion of 1 acre-foot in a 1-year period for industrial (highway construction) purposes.

Water may be diverted from Terrapin Creek, approximately 0.5 miles south of Martinsville, Nacogdoches County, Texas, Neches River Basin.

Application Number TA-7824 by Hydra-Tex Services Inc. for diversion of 2 acre-feet in a six month period for mining purposes. Water may be diverted from the Little Brazos River, just north of FM. 1687, approximately 6.5 miles northwest of Bryan in Brazos County, Texas, Brazos River Basin.

Application Number TA-7825 by Water Line Systems for diversion of 10 acre-feet in a 1-year for mining (gas well drilling) purposes. Water may be diverted from the Rio Grande 7 miles south of Loop 20, 7 miles south of Laredo, Webb County, Texas, Rio Grande Basin.

Application Number TA-7797 by Union Pacific Resources for diversion of 9 acre-feet in a one year period for mining (oil production) purposes. Water may be diverted from the Brazos River 11 miles north of FM. 1362 on private property, approximately 13 miles east of Caldwell in Burleson County, Texas, Brazos River Basin.

Application Number TA-7798 by Union Pacific Resources for diversion of 9 acre-feet in a one year period for mining (oil production) purposes. Water may be diverted from the Brazos River, 2.8 miles south of Highway 21 on private property, approximately 14 miles east of Caldwell in Burleson County, Texas, Brazos River Basin.

Application Number TA-7799 by Union Pacific Resources for diversion of 9 acre-feet in a one year period for mining (oil production) purposes. Water may be diverted from the Little Brazos River, 3.5 miles east of Highway 50 on private property, approximately 30 miles southwest of Franklin in Robertson County, Texas, Brazos River Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be canceled without notice and hearing. No further diversions may be made pending a full hearing as provided in Section 295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Issued in Austin, Texas, on June 13, 1997.

TRD-9707758

Eugenia K. Brumm, Ph. D.

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: June 13, 1997

Filed: June 11, 1997

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a new Centrex-custom service offering for the City of Lufkin.

Tariff Title and Number. Application of Lufkin-Conroe Telephone Exchange, Inc. for Approval of a New Centrex-Custom Service Offering for the City of Lufkin in the Company's Lufkin Exchange, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27(c)(2). Tariff Control Number 17558.

The Application. Lufkin-Conroe Telephone Exchange, Inc. is requesting approval of a new Centrex-custom service offering for the City of Lufkin in the company's Lufkin exchange.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707614
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: June 11, 1997

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Notice is given to the public of the filing with the Public Utility Commission of Texas (PUC) an application on May 30, 1997, pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94 for approval of a rate change.

Tariff Title and Number: Application of Fort Bend Telephone Company for Approval of a Rate Change Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94. Tariff Control Number 17532.

The Application: Fort Bend Telephone Company requests approval to pass through municipal franchise fees to customers located within the city limits of Beasley, Brookshire, Fairchild, Katy, Needville, and Pattison.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120 on or before August 10, 1997. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707611
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas

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Notice is given to the public of the filing with the Public Utility Commission of Texas (PUC) an application on May 23, 1997, pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94 for approval of ISDN proposals and a rate change.

Tariff Title and Number: Application of Fort Bend Telephone Company for Approval of ISDN Proposals and Rate Change Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94. Tariff Control Number 17500.

The Application: Fort Bend Telephone Company seeks approval for the following proposals regarding Integrated Services Digital Network (ISDN) Services: (1) to offer Packet Switched Features for ISDN-BRI and ISDN-PRI Services; (2) to offer DigiFlex ISDN-BRI FlexNet Services; (3) to reduce certain nonrecurring charges for DigiFlex ISDN-BRI Service; and (4) to comply with the ISDN technical requirements outlined in Public Utility Commission SUBSTANTIVE RULE 23.69. Approval of this application will result in a rate increase to one customer.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120 on or before July 31, 1997. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707612
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: June 11, 1997

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Notices of Application Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94

Notice is given to the public of the filing with the Public Utility Commission of Texas (PUC) an application on April 18, 1997, pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94 for approval of a new optional service.

Tariff Title and Number: Application of Community Telephone Company, Inc. for Approval to Offer a New Optional Service Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.94. Tariff Control Number 17369.

The Application: Community Telephone Company, Inc. proposes to offer a new optional service, Calling Name and Number Delivery, available to all business and residential customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120 on or before June 30, 1997. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707613

Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: June 11, 1997



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for a 24 station addition to the existing PLEXAR-Custom service for Victoria ISD in Victoria, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for a 24 station addition to the existing PLEXAR-Custom Service for Victoria ISD in Victoria, Texas, pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 17559.

The Application. Southwestern Bell Telephone Company is requesting approval for a 24 station addition to the existing PLEXAR-Custom service for Victoria ISD in Victoria, Texas. The geographic service market for this specific service is the Corpus Christi local access and transport area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 11, 1997.

TRD-9707610
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: June 11, 1997



Notice of Joint Agreement to Provide Extended Metropolitan Service

Notice is given to the public of the filing with the Public Utility Commission of Texas a joint agreement on June 10, 1997, seeking approval of two-way optional Extended Metropolitan Service (EMS) from the Valley Mills exchange to the Waco Metropolitan Exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Agreement of Texas Alltel, Inc. (Alltel) and Southwestern Bell Telephone Company (SWB) to provide Extended Metropolitan Service (EMS) from the Valley Mills exchange to the Waco Metropolitan Exchanges; Project Number 14006.

The Joint Petition and Agreement: Alltel and SWB request approval to offer EAS in the form of two-way, optional, EMS from the Valley Mills exchange to the Waco Metropolitan Exchanges to all residential and business Alltel customers residing within the telephone exchange boundaries of the Valley Mills exchange. Customers residing in the Valley Mills exchange electing to subscribe to EMS will pay a flat-rate month charge that includes basic local exchange service.

Alltel' standard service connection charges will apply to all current local exchange access customers placing orders for EMS. However, Alltel will waive the standard service connection charge for customers subscribing to the EMS plan during the 600 day period after the EMS in-service date.

The joint applicants have requested that the joint agreement filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120 by August 20, 1997. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707797
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: June 16, 1997



Public Notice of Interconnection Agreement

On June 5, 1997, Southwestern Bell Telephone Company (SWBT) and PrimeCo Personal Communications, L.P. (PrimeCo) collectively referred to as Applicants, filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Public Law Number 104-104, 110 Statute 56 (1996), (to be codified at 47 United States Code §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated article 1446c-0, Vernon 1997). The joint application has been designated Docket Number 17190. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 17190. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by July 10, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will determine whether to conduct further proceedings concerning the joint application. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 17190.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707798
 Rhonda Dempsey
 Rules Coordinator
 Public Utility Commission of Texas
 Filed: June 16, 1997

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Texas Rehabilitation Commission

Statewide Request for Offers (RFO)

Durable Medical Goods

The Texas Rehabilitation Commission (TRC) is requesting offers from durable medical goods providers who can serve TRC clients throughout the State of Texas. This is a multiple-award procurement.

Offers are requested from providers of durable medical goods in only the following categories:

- Power wheelchairs (fully functional chairs)
- Manual wheelchairs (fully functional chairs)
- Scoters
- Power units and controllers (replacement)
- Seating/positioning systems (replacement)
- Patient lifts
- Hospital beds

Copies of the request for offers (RFO) packets are available at TRC, Buyer Support Services, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, or by contacting Paulette Nall at (512) 424-4445.

Historically Underutilized Business (HUB) enterprises will be afforded full opportunity to participate in contracts under this solicitation.

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

Issued in Austin, Texas, on June 11, 1997.

TRD-9707600
 Simon Y. Rodriguez
 General Counsel for the Office of the General Counsel
 Texas Rehabilitation Commission
 Filed: June 11, 1997

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Texas Department of Transportation

Request for Proposals

The County of Aransas, through its agent, the Texas Department of Transportation (TxDOT) intends to engage an architect pursuant to Chapter 2254, Subchapter A, of the Government Code. The Aviation Division will receive proposals for an professional services as described in the project scope for the following project:

Airport Sponsor: County of Aransas; TxDOT CSJ Number: 9716RCKPT; Project Scope: Design and construction phases for a new terminal building; and associated appurtenances; Estimated Total Project Cost: \$400,000; Project Manager: John Greer. The Proposal shall include: 1. Firm name, address, phone number and person to contact regarding the proposal. 2. Proposed project management structure identifying key personnel and subconsultants (if any). 3. Qualifications and recent experience of the firm, key personnel and subconsultants relative to the performance of similar services for airport terminal buildings. 4. Proposed project schedule, including major tasks and target completion dates. 5. Technical approach - a brief discussion of the tasks or steps to accomplish the project. 6. List of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance. 7. Design Schedule Project Team. 8. Statement regarding an Affirmative Action Program. 9. Certification that all franchise taxes are paid or that consultant is not subject to franchise taxes. 10. Certification of Child Support payments as now required by Senate Bill 84, 73rd Legislature. Forms are available by calling TxDOT, Grant Administration, at (512) 476-9262 or 1-800-68-PILOT.

Those interested consultants should submit six copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information for the project to: Texas Department of Transportation, Aviation Division, Attention: Grant Management. Mailing Address: 125 East 11th Street, Austin, Texas; 78701-2483; Hand delivery address: 150 East Riverside Drive, North Tower, Second Floor, Austin, Texas 78704; Austin, Texas 78701. Proposals must be received in this office by 4:00 p.m.(CDT), July 14, 1997, in the office of the Aviation Division.

The airport sponsor(s) duly appointed committee will review all proposals and select three to five architectural/engineering firms for

interviews. The final consultant selection by the sponsor's committee will be made following the completion of the review of proposals and/or interviews. Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The airport sponsor reserves the right to reject any or all proposals, and to conduct new consultant selection procedures for future projects.

If there are any procedural questions, please contact Karon Wiedemann, Director, Grant Management, Aviation Division, Texas Department of Transportation, or the Aviation Division project manager, Aviation Division Texas Department of Transportation, (512) 416-4520 or 1-800-68-PILOT.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707795

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: June 16, 1997



Request for Qualifications

The City of Mesquite, through its agent, the Texas Department of Transportation (TxDOT) intends to engage an aviation engineering consultant pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT will solicit and receive qualifications for professional services as described in the project scope for the following project:

Airport Sponsor: City of Mesquite; TxDOT CSJ Number 9742MSQTE; Project Scope: Reconstruction of hangar access taxiways and north apron, and removal of fuel storage tanks at the Mesquite Metro; Estimated total project cost: \$510,000. Project Manager: Alan Schmidt; Mailing address: TxDOT, 125 East 11th Street, Austin, Texas 78701-2483; Hand Delivery address: 150 East Riverside, North Tower, Second Floor, Austin, Texas.

Interested firms which do not already have a copy of the Form 439, entitled "Aviation Consultant Services Questionnaire", (August 1995 Version) may request one from the TxDOT Aviation Division, 125 East 11th Street, Austin, Texas 78701-2483, 1-800-68-PILOT. The form is also available on high density 3 1/2" diskette in Microsoft Excel 5.0, and may be ordered from the above address with remittance of \$2.50 to cover costs. The form may not be altered in any way, and all printing must be in black. **QUALIFICATIONS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.**

Two completed unfolded copies of Form 439 (August 1995 version) must be received by 4:00 p.m. (CDT), July 14, 1997, at the previously mentioned Aviation Division Office address. The three pages of instructions should not be forwarded with the completed questionnaires. Electronic facsimiles will not be accepted.

The airport sponsor's duly appointed committee will review all professional qualifications and select three to five engineering firms for proposals. Those firms selected will be required to provide more detailed, project-specific proposals which address the project team, technical approach, Disadvantaged Business Enterprise (DBE) participation, design schedule, and other matters, prior to the final selection process. The final consultant selection by the sponsor's committee will generally be made following the completion of review

of proposals and/or interviews. Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14C.

The airport sponsor reserves the right to reject any or all statements of qualifications and to conduct new consulting engineer selection procedures.

If there are any procedural questions, please contact Karon Wiedemann, Director, Grant Management, Aviation Division, Texas Department of Transportation at (512) 416-4520 or 1-800-68-PILOT.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707796

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: June 16, 1997



Texas Workers' Compensation Commission

Standards and Procedures for the Medical Advisory Committee and Invitation to Applicants for Appointment to the Medical Advisory Committee

Standards and Procedures For the Medical Advisory Committee and Invitation to Application for Appointment to the Medical Advisory Committee

The Texas Workers' Compensation Commission at its June 12, 1997, public meeting replaced the Medical Advisory Committee bylaws with Standards and Procedures for the Medical Advisory Committee. The approved Standards and Procedures are as follows:

LEGAL MANDATE

The Medical Advisory Committee for the Texas Workers' Compensation Commission, Medical Review Division is established under the Texas Workers' Compensation Act, (the Act 413.005).

PURPOSE AND ROLE

The purpose of the Medical Advisory Committee (MAC) is to bring together representatives of 12 health care specialties and representatives of labor, business and the general public to advise the Medical Review Division in developing and administering the medical policies, fee guidelines, and the utilization guidelines established under the Act, 413.011.

COMPOSITION

Membership

The committee, appointed by the Commissioners, is composed of 16 members who must be knowledgeable and qualified regarding work-related injuries and diseases. Twelve members of the committee shall represent specific health care provider groups. These members shall include a public health care facility, a private health care facility, a doctor of medicine, a doctor of osteopathic medicine, a chiropractor, a dentist, a physical therapist, a pharmacist, a podiatrist, an occupational therapist, a medical equipment supplier, and a registered nurse. Appointees must have at least six years of professional experience in the medical profession they are representing and engage in an active practice in their field.

The Commission shall also appoint a representative of employers, a representative of employees, and two representatives of the general

public. These appointees shall not hold a license in the health care field and may not derive their income directly or indirectly from the provision of health care services. The Commissioners may appoint one alternate representative for each primary member appointed to the MAC, each of whom shall meet the qualifications of an appointed member.

Neither the health care provider, nor a business they may be associated with, may derive more than 40% of their revenues from workers' compensation patients. This fact must be certified in their application to the MAC.

Terms of Appointment

Members serve at the pleasure of the Commissioners. Unless otherwise directed by the Commissioners, the term of appointment for primary and alternate members will be two years. A member may serve a maximum of two terms as a primary, alternate or a combination of primary and alternate member. Terms of appointment will terminate August 31 of the second year following appointment to the position, unless the member resigns, abandons, or is removed from the position prior to the termination date. Abandonment will be deemed to occur if any primary member is absent from more than two consecutive meetings without an excuse accepted by the Medical Review Division Director. Abandonment will be deemed to occur if any alternate member is absent from more than two consecutive meetings which the alternate is required to attend because of the primary member's absence without an excuse accepted by the Medical Review Division Director. The terms will commence as follow:

Primary: FY Ending 1999

Alternate: FY ending 1999

Chiropractor

Osteopath

Pharmacy

Dentist

General Public A

Private Facility

Occupational Therapist

Primary: FY Ending 2000

Alternate: FY ending 2000

Registered Nurse

Public Facility

Medical Equipment

Physical Therapist

General Public B

Medical Doctor

Podiatrist

Employer

Employee

In the case of a vacancy, the Commissioners will appoint an individual who meets the qualifications for the position to fill the

vacancy. The Commissioners may re-appoint the same individual to fill either a primary or alternate position as long as the term limit is not exceeded. Due to the absence of other qualified, acceptable candidates, the Commissioners may grant an exception to its membership criteria which are not required by statute.

RESPONSIBILITY OF MAC MEMBERS

Primary Members

Make recommendations on medical issues to the Medical Review Division.

Attend the MAC meetings, subcommittee meetings, and work group meetings to which they are appointed.

Ensure attendance by the alternate member at meetings when the primary member cannot attend.

Provide other assistance requested by the Medical Review Division in the development of guidelines and medical policies.

Alternate MAC Members

Attend the MAC meetings, subcommittee meetings, and work group meetings to which the primary member is appointed during the primary member's absence.

Maintain knowledge of MAC proceedings.

Make recommendations on medical issues to the Medical Review Division when the primary member is absent at a MAC meeting.

Provide other assistance requested by the Medical Review Division in the development of guidelines and medical policies when the primary member is absent from a MAC meeting.

Committee Officers

The chairman of the MAC is designated by the Commissioners. The MAC will elect a vice chairman. A member shall be nominated and elected as vice chairman when he/she receives a majority of the votes from the membership in attendance at a meeting at which nine or more primary or alternate members are present.

Responsibilities of the Chairman

Preside at MAC meetings and ensure the orderly and efficient consideration of matters requested by the Medical Review Division.

Prior to a MAC meeting confer with the Medical Review Division Director, and when appropriate, the TWCC Executive Director to receive information and coordinate:

- a. Preparation of a suitable agenda.
- b. Planning MAC activities.
- c. Establishing meeting dates and calling meetings.
- d. Establishing subcommittees.
- e. Recommending MAC members to serve on subcommittees.

If requested by the Commission, appear before the Commissioners to report on MAC meetings.

COMMITTEE SUPPORT STAFF

The Director of Medical Review will provide coordination and reasonable support for all MAC activities. In addition, the Director will serve as a liaison between the MAC and the Medical Review Division staff of TWCC, and other Commission staff if necessary.

The Medical Review Director will coordinate the following activities for the MAC and its subcommittees and work groups:

Preparing agenda and support materials for each meeting.

Preparing and distributing information and materials for MAC use.

Maintaining MAC records.

Preparing minutes of meetings.

Arranging meetings and meeting sites.

Maintaining tracking reports of actions taken and issues raised by the MAC.

Maintaining attendance records.

SUBCOMMITTEES

The chairman shall appoint the members of a subcommittee from the membership of the MAC unless the Commissioners or Director of Medical Review do so. If other expertise is needed to support subcommittees, the Commissioners or the Director of Medical Review may appoint appropriate individuals.

WORK GROUPS

When deemed necessary by the Director of Medical Review or the Commissioners, work groups will be formed by the Director. At least one member of the work group must also be a member of the MAC.

WORK PRODUCT

No member of the MAC, a subcommittee, or a work group may claim or is entitled to an intellectual property right in work performed by the MAC, a subcommittee, or a work group.

MEETINGS

Frequency of Meetings Regular meetings of the MAC shall be held at least quarterly each fiscal year during regular Commission working hours.

CONDUCT AS A MAC MEMBER

Special trust has been placed in members of the Medical Advisory Committee. Members act and serve on behalf of the disciplines and segments of the community they represent and provide valuable advice to the Medical Review Division and the Commission. Members, including alternate members, shall observe the following conduct code and will be required to sign a statement attesting to that intent.

Comportment Requirements for MAC Members:

Learn their duties and perform them in a responsible manner;

Conduct themselves at all times in a manner that promotes cooperation and effective discussion of issues among MAC members;

Accurately represent their affiliations and notify the MAC chairman and Medical Review Director of changes in their affiliations;

Not use their memberships on the MAC

- in advertising to promote themselves or their business,

- to gain financial advantage either for themselves or for those they represent; however, members may list MAC membership in their resumes;

Provide accurate information to the Medical Review Division and the Commission;

Consider the goals and standards of the workers' compensation system as a whole in advising the Commission;

Explain, in concise and understandable terms, their positions and/or recommendations together with any supporting facts and the sources of those facts;

Strive to attend all meetings and provide as much advance notice to the Texas Workers' Compensation Commission staff, attention: Medical Review Director, as soon as possible if they will not be able to attend a meeting; and

Conduct themselves in accordance with the MAC Standards and Procedures, the standards of conduct required by their profession, and the guidance provided by the Commissioners, Medical Review Division, or other TWCC staff.

The Commission will consider taking action to cancel all current appointments to the Commission's Medical Advisory Committee at a subsequent public meeting, the next one of which is tentatively scheduled for July 10, 1997. The Commission will consider taking action to appoint members to the MAC in accordance with the MAC Standards and Procedures.

Invitation to Applicants for Appointment to the Medical Advisory Committee

The Texas Workers' Compensation Commission (TWCC) invites all qualified individuals, and representative of public health care facilities and other entities and all current primary and alternate MAC members to apply to fill any of the following positions on the Medical Advisory Committee (MAC) in accordance with the eligibility requirements of the new Standards and Procedures for the Medical Advisory Committee. The purpose and tasks of the MAC are outlined in the Texas Labor Code, §413.005, which includes advising the Medical Review Division of TWCC on the development and administration of medical policies and guidelines. The MAC meets, on the average, once every six weeks. MAC members are not reimbursed for travel, per diem, or other expenses associated with the MAC activities and meetings.

The members of the MAC are appointed by the six commissioners of TWCC and include health care providers, representatives of employees and employers and members of the general public. Each member must be knowledgeable and qualified regarding work-related injuries and diseases. The complete membership of the MAC includes 16 primary members and 16 alternate members.

During the primary member's absence, the alternate member will attend the MAC meetings, subcommittee meetings, and work group meetings to which the primary member is appointed. The alternate may attend all meetings. Alternate members shall fulfill the same responsibilities as primary members, as set out in the Standards and Procedures for the Medical Advisory Committee as adopted by the Commission.

The Commission solicits applications for the following positions on the TWCC Medical Advisory Committee:

PRIMARY

1. Primary member - Public Health Care Facility
2. Primary member - Private Health Care Facility

3. Primary member - Doctor of Medicine
4. Primary member - Doctor of Osteopathic Medicine
5. Primary member - Chiropractor
6. Primary member - Dentist
7. Primary member - Physical Therapist
8. Primary member - Pharmacist
9. Primary member - Podiatrist
10. Primary member - Occupational Therapist
11. Primary member - Medical Equipment Supplier
12. Primary member - Registered Nurse
13. Primary member - Representative of Employers
14. Primary member - Representative of Employees
15. Primary member - General Public
16. Primary member - General Public

ALTERNATE

17. Alternate member - Public Health Care Facility
18. Alternate member - Private Health Care Facility
19. Alternate member - Doctor of Medicine
20. Alternate member - Doctor of Osteopathic Medicine
21. Alternate member - Chiropractor
22. Alternate member - Dentist
23. Alternate member - Physical Therapist
24. Alternate member - Pharmacist
25. Alternate member - Podiatrist
26. Alternate member - Occupational Therapist
27. Alternate member - Medical Equipment Supplier
28. Alternate member - Registered Nurse
29. Alternate member - Representative of Employers
30. Alternate member - Representative of Employees
31. Alternate member - General Public
32. Alternate member - General Public

Any person or entity interested in serving on the MAC may contact Juanita Salinas in the Commission's Medical Review Division at (512) 707-5888 to obtain an application packet. Applications must be received by the TWCC Medical Review Division by 5:00 p.m. on July 18, 1997.

Issued in Austin, Texas, on June 16, 1997.

TRD-9707824

Elaine Crease

Program Assistant, General Counsel's Office

Texas Workers' Compensation Commission

Filed: June 16, 1997



TWCC Advisory 97-01

SUBJECT: Texas Workers' Compensation Commission Medical Fee Guideline 1996, 28 TAC §134.201

The Commission provides this information to clarify certain provisions of the TWCC Medical Fee Guideline 1996, adopted by reference in 28 Texas Administrative Code §134.201 (Medical Fee Guideline).

MODIFIER-22 Unusual Services

The Medical Fee Guideline contains reimbursement amounts or methods to be used for reimbursement for health care provided under the Texas workers' compensation system. When a service is provided that is greater than that usually required for the listed procedure, the modifier-22 Unusual Services may be used to request reimbursement in excess of that specified in the Medical Fee Guideline. Documentation of procedure (DOP) substantiating the request for increased reimbursement is required.

REQUIRED MEDICAL EXAMINATION (not for Maximum Medical Improvement/Impairment Rating)

When billing for a required medical examination that is not for the purpose of certifying maximum medical improvement or assessing an impairment rating (MMI/IR), a provider should use the appropriate CPT code describing the level of service with modifier-34 and bill the usual and customary charge for the examination.

VIDEOFLUOROSCOPY ± Radiology/Nuclear Medicine Ground Rules I(D), page 204

For the purposes of the Medical Fee Guideline, the term "videofluoroscopy" refers to the performance of a fluoroscopic procedure of which a video tape recording of that procedure is also generated. A video tape of the fluoroscopy may be considered an appropriate legal precaution; however, it is very rarely considered a medical necessity. When videofluoroscopy or fluoroscopy is performed with a myelogram or discogram, such procedures are considered part of the service and should not be billed separately. If a health care provider believes fluoroscopic assistance (fluoroscopy) is medically necessary when performing an injection on a particular patient, and it is not included in the procedure, the provider shall bill the appropriate CPT code for the injection and the appropriate CPT code for the fluoroscopic assistance. If a health care provider believes a video tape of the fluoroscopic assistance is medically necessary for a particular patient, the provider shall bill the appropriate CPT code for the injection and the appropriate CPT code for the fluoroscopic assistance with the addition of the modifier-22 Unusual Services for the video tape. For reimbursement of fluoroscopic assistance with the modifier-22 to be considered, the provider must include documentation of medical necessity.

OFFICE VISIT CHARGE FOR THERAPEUTIC PROCEDURES ± Surgery Ground Rules I(E)(4)(e), page 66

When a therapeutic procedure, such as an injection, is performed at a follow-up office visit, a health care provider may additionally bill and be reimbursed for a minimal office visit in accordance with the CPT code descriptors in the Evaluation and Management section of the Medical Fee Guideline only when a significant re-evaluation of the injured worker is necessary. To eliminate possible delays caused by return and resubmission of bills, the health care provider may wish to submit documentation supporting the necessity for re-evaluation and the performance of a minimal office visit.

CHARGES FOR EMERGENCY ROOM VISITS ± Surgery Ground Rules I(B)(1)(a), page 63

Physician charges for an emergency room visit may be billed and reimbursed when an injured worker is admitted to surgery through the emergency room if the emergency room visit is the initial visit and requires prolonged detention or evaluation in order to prepare the patient and/or to establish the need for a particular type of surgery. To eliminate possible delays caused by return and resubmission of bills, the health care provider may wish to submit documentation supporting reimbursement for an emergency room visit including documentation that the patient required prolonged detention or evaluation to prepare the patient for surgery and/or to establish the need for a particular type of surgery.

SERVICES NECESSARY TO STABILIZE PATIENT

If an injured worker has a condition (for example, diabetes) that impacts surgery or the treatment provided to the injured worker for a compensable injury, services necessary to stabilize the patient, so that surgery or other treatment of the compensable injury can be performed safely and/or effectively, are reimbursable (in addition to the surgery or treatment) as provided by the Medical Fee Guideline for that service.

BILLING FOR IMMUNIZATIONS- Medicine Ground Rules, page 45.

The cost of drugs necessary for immunizations described by CPT codes 90700 through 90749 is billable separately and reimbursable in addition to the fee provided by the Medical Fee Guideline for the immunization procedure.

CORRECTIONS OF CLERICAL ERRORS IN THE MEDICAL FEE GUIDELINE 1996

The TWCC executive director has corrected the following clerical errors in the Commission's order of February 15, 1996 adopting and incorporating the Medical Fee Guideline 1996. The corrections and a brief explanation of their effect follows.

General Instructions, Section VIII(B), General Modifiers, page 3

MODIFIER-35 Designated Doctor- This modifier was included by clerical error and has been deleted.

The section of the proposed Medical Fee Guideline that referred to this modifier was deleted prior to adoption of the rule and modifier-35 is not used elsewhere in the Guideline.

General Instructions, Section VIII(C), Surgery Modifiers, page 4

The words "requiring a separate incision" should have been deleted when this modifier was revised to apply to procedures through both the same and separate incisions.

As corrected it reads:

"-50 Bilateral Procedure: When bilateral procedures are performed at the same operative session, use the appropriate procedure code for the first procedure. For the second (bilateral) procedure, add the modifier "-50" to the procedure."

When a CPT code identifies half of a bilateral procedure, the second half of the procedure is identified by using that CPT code and the modifier-50. Health care providers should refer to the American Medical Association's 1995 Physicians' Current

Procedural Terminology for additional information on billing bilateral procedures.

Surgery Ground Rules, Section I(E)(2)(a), Arthrodesis, page 65.

The word "minimal" was omitted from the section by clerical error.

As corrected it reads:

"All arthrodesis procedures include those vertebral graft preparations, such as minimal diskectomy, necessary to accomplish the arthrodesis."

Preparation of the arthrodesis site, such as minimal diskectomy, is not separately billable and is considered to be part of the arthrodesis procedure. A full diskectomy procedure may be billed separately if not included as part of the global procedure for arthrodesis. Refer to Global Service Data for Orthopaedic Surgery, revised edition, January 1994, compiled by the American Academy of Orthopaedic Surgeons for services excluded and included in the arthrodesis procedure performed.

Surgery Ground Rules, Section I(E)(3), Bilateral Procedures, page 65.

The phrase "unless otherwise identified in the CPT descriptor" should have been separated from subsection I(E)(3)(a) to indicate that it applies to both I(E)(3)(a) and (b).

As corrected it reads:

"Unless otherwise identified in the CPT descriptor:

(a) Bilateral procedures that are performed at the same operative session shall be identified by the appropriate five digit code describing the first procedure. The second (bilateral) procedure is identified by adding modifier-50 to the procedure.

(b) Fusions, instrumentations, and/or nerve decompression procedures are considered bilateral, therefore, no additional reimbursement shall be allowed."

Some CPT codes for bilateral procedures identify both sides of the procedure, whereas other CPT codes identify only half of the bilateral procedure. When a CPT code identifies half of a bilateral procedure, the second half of the bilateral procedure is identified by using the CPT code and the modifier -50. When a CPT code identifies both portions of a bilateral procedure, only one code is to be billed and reimbursed.

Health care providers should refer to the American Medical Association's 1995 Physicians' Current Procedural Terminology for additional information on billing bilateral procedures.

Surgery Ground Rules, Section I(E)(4)(c), Surgical Injections, page 66.

The phrase "for lumbar or caudal epidural area" was omitted from the end of the sentence.

As corrected it reads:

"Epidural steroid injections shall be billed using code 62289 only for lumbar or caudal epidural areas."

When an epidural steroid injection is performed outside of the lumbar or caudal areas, the appropriate CPT Code should be used describing the service performed.

Surgery Ground Rules, Modifiers, page 68.

The words "requiring a separate incision" should have been deleted when this modifier was revised to apply to procedures through both the same and separate incisions.

As corrected it reads:

"-50 Bilateral Procedure: When bilateral procedures are performed at the same operative session, use the appropriate procedure code for the first procedure. For the second (bilateral) procedure, add the modifier "-50" to the procedure."

When a CPT code identifies half of a bilateral procedure, the second half of the procedure is identified by using the CPT code and the modifier-50. Health care providers should refer to the American Medical Association's 1995 Physicians' Current Procedural Terminology for additional information on billing bilateral procedures.

Signed by Todd K. Brown, Executive Director, on June 13, 1997.

Following is the cover letter to TWCC Advisory 97-01:

June 13, 1997

TO: All Workers' Compensation Insurance Carriers and All Health Care Providers Billing for Workers' Compensation Services

Re: Texas Workers' Compensation Commission Medical Fee Guideline 1996

Dear Carrier or Health Care Provider:

The attached TWCC Advisory 97-01 contains clarifications of and clerical corrections to the TWCC Medical Fee Guideline 1996 (Medical Fee Guideline). These clarifications and clerical corrections are effective for all workers' compensation billing under the Medical Fee Guideline since its effective date of April 1, 1996.

If a health care provider (HCP) believes TWCC Advisory 97-01 affects the billing and reimbursement for medical services previously billed, the HCP may resubmit the bill to the insurance carrier in accordance with this letter. The Medical Review Division of the Commission will accept requests for medical dispute resolution for such resubmitted bills as set out in this letter. If the original bill covered medical services affected by TWCC Advisory 97-01 which

were provided on or after April 1, 1996 through December 31, 1996, the Commission's Medical Review Division will accept a request for Medical Dispute Resolution of a bill resubmitted to the insurance carrier if the request is filed no later than January 1, 1998 and is otherwise in accordance with the Commission rule set out in Title 28 Texas Administrative Code §133.305. For any request for medical dispute resolution covering medical services affected by TWCC Advisory 97-01 provided on or after January 1, 1997, the §133.305 one-year filing deadline applies.

Except as specified in this notice, the Commission's dispute resolution staff will not consider requests for medical dispute resolution for resubmitted bills which should have been timely presented under §133.305, including medical justification for a deviation from the Guideline amounts. Medical disputes regarding medical services will be resolved in accordance with the provisions of the Texas Workers' Compensation Act, including those contained within Chapter 413 of the Texas Labor Code. Any party to a medical dispute resolution is responsible for submitting sufficient evidence in support of its position that the reimbursement amount sought meets the provisions of the Workers' Compensation Act and the Medical Fee Guideline.

Please direct any questions concerning these matters to the Commission's Medical Benefit Services staff at (512) 707-5892.

Sincerely,

Todd K. Brown

Executive Director

Issued in Austin, Texas on June 16, 1997

Issued in Austin, Texas, on June 16, 1997.

TRD-9707825

Elaine Crease

Program Assistant, General Counsel's Office

Texas Workers' Compensation Commission

Filed: June 16, 1997

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