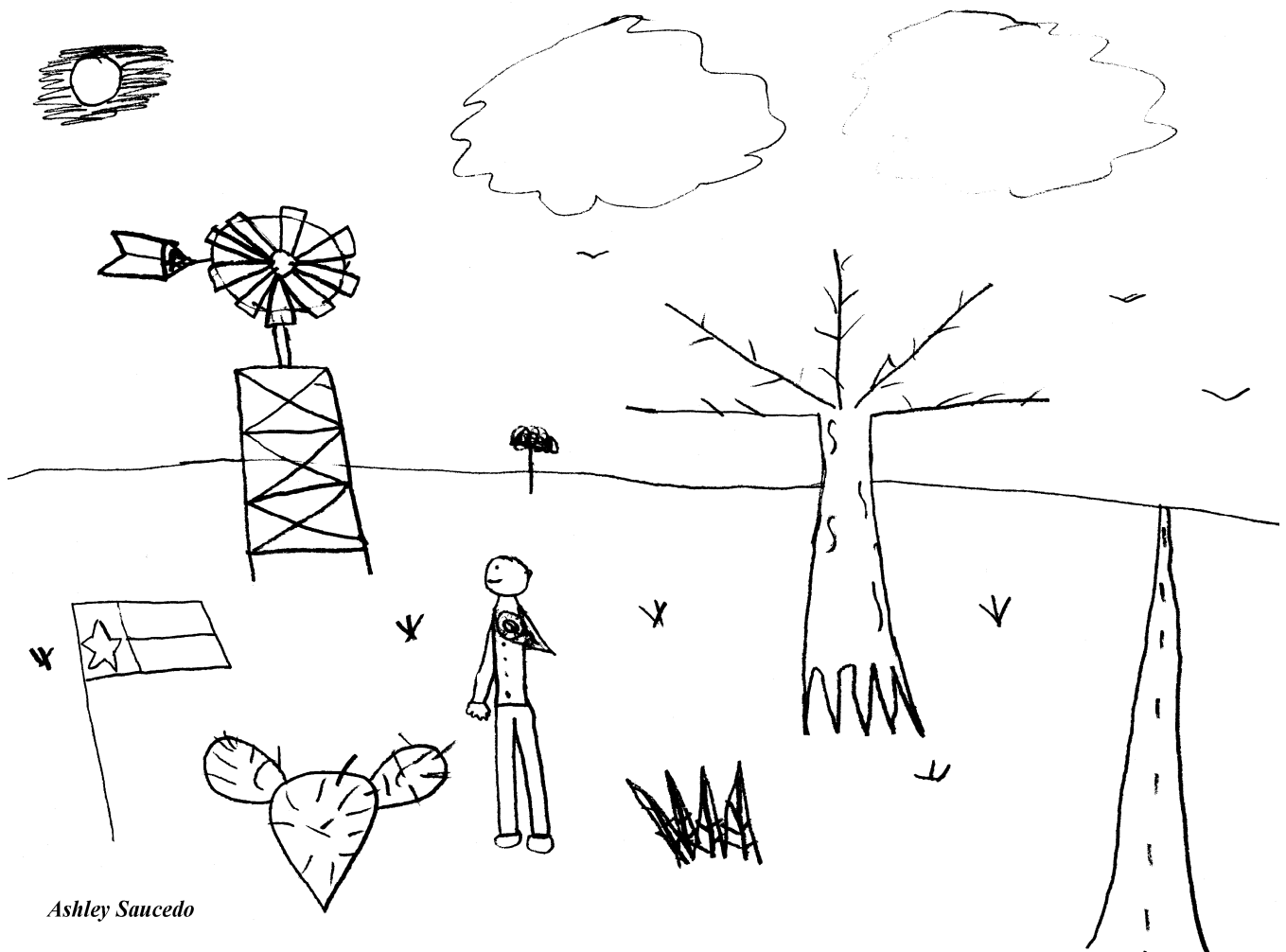

TEXAS REGISTER

Volume 36 Number 2

January 14, 2011

Pages 113 – 182



Ashley Saucedo

School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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Texas Register, (ISSN 0362-4781, USPS 120-090), is published weekly (52 times per year) for \$211.00 (\$311.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 1275 Broadway, Albany, N.Y. 12204-2694.

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The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Albany, N.Y. and at additional mailing offices.

POSTMASTER: Send address changes to the *Texas Register*, 136 Carlin Rd., Conklin, N.Y. 13748-1531.

TEXAS REGISTER

a section of the
Office of the Secretary of State
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PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY

SUBCHAPTER G. LEGAL ACTION RELATING TO PROVIDERS OF MEDICAL ASSISTANCE

The Texas Health and Human Services Commission (HHSC) proposes an amendment to §371.1647, concerning notice of sanction; and new §371.1709, concerning recoupment of overpayments pursuant to audit, in Chapter 371, Medicaid and Other Health and Human Services Fraud and Abuse Program Integrity.

Background and Justification

The existing rules that govern recovery of overpayments by the HHSC Office of Inspector General (OIG) contemplate the enforcement of field investigations originated by the OIG. Audits and reviews have historically been enforced by the agency responsible for regulating the facility.

This new rule is proposed to implement provisions of the federal Deficit Reduction Act of 2005, specifically section 1936 of the Social Security Act, which created the Medicaid Integrity Program (MIP). Section 1936 requires the Centers for Medicare & Medicaid Services (CMS) to contract with eligible entities to review and audit Medicaid claims for fraud, waste, and abuse.

According to the most recent CMS Comprehensive Medicaid Integrity Plan, the CMS Medicaid Integrity Group (MIG) expects to continue awarding auditing contracts throughout federal fiscal year 2013. Although the MIG auditors will identify overpayments, CMS looks to the individual states to recoup those overpayments.

HHSC-OIG expects this trend to continue. The United States Department of Health and Human Services Office of Inspector General's Office of Audit Services recently announced that it is conducting a new enforcement initiative against Medicaid providers. The federal OIG's Office of Audit Services will identify overpayments but will require the states to recoup those funds. In March 2010, Congress enacted the Patient Protection and Affordable Care Act, which expands recovery audit contractors' audit authority to Medicaid claims. It is contemplated that HHSC-OIG will need a procedural rule to support enforcement of these additional enforcement initiatives.

The current administrative rules do not contemplate the procedural differences between audits and investigations. They are in-

sufficient to comply with government auditing standards in some respects and too burdensome in others. The proposed new rule establishes a procedural process for enforcement of audit findings that comports with accepted auditing standard requirements and streamlines the enforcement process. The proposed rule also specifies the government auditing standards that must be employed by federal and contract auditors, thus ensuring that providers will not be subjected to improper audits or reviews.

The federal audits will identify noncompliance with existing program violations. Unless otherwise indicated in this proposal, the new rule does not impose any new substantive requirements that are not already in policy and in use.

The amendment to §361.1647 is proposed to address the notice requirement for an audit that has been performed in accordance with proposed new §371.1709.

Section-by-Section Summary

Proposed new §371.1709(a) is an introduction describing the OIG's authority to recoup overpayments identified in an audit or review.

Proposed new §371.1709(b) contains definitions pertaining to this section.

Proposed new §371.1709(c) sets forth the procedural standards applicable to §371.1709. Subsection (c): (1) requires an auditor to limit the period covered by an audit to five years; (2) requires the auditor to notify the provider and any corporate headquarters of the impending audit at least seven days before the field audit begins, except under certain conditions; (3) provides that if an exit conference is conducted, the auditor or reviewer must allow the provider to respond to questions and comment on the initial findings; (4) requires the auditor to permit the provider to produce supplemental documentation to address any audit exceptions within 10 days after the date of the exit conference, if any, or by a later date specified by the auditor; (5) requires the auditor to deliver a draft audit report to the provider; (6) requires the auditor to permit the provider to submit a written management response to the draft audit report or to informally appeal the findings in the draft audit report; (7) permits the auditor to elect whether to issue a revised draft audit report or to issue the final report and provides that if any revisions modify the basis for determining an overpayment, the provider will be permitted to submit a response to the revisions; (8) requires the auditor to deliver the final audit report to the provider; and (9) describes the elements that the auditor must include in the final audit report.

Proposed new §371.1709(d) sets forth the requirement that providers repay identified overpayments within 60 days after receiving the final audit or review report, and the exceptions to this requirement.

Proposed new §371.1709(e) provides that for purposes of refunding the federal share of any questioned costs, the date of the written notice of overpayment constitutes the date of discovery. If the provider appeals the final audit report, the state will issue another written notice of identified overpayment at the conclusion of the appeal and the date of the post-appeal notice will constitute the date of discovery.

Proposed new §371.1709(f) sets forth the requirements for a provider to request a payment plan agreement and provides that the OIG may toll the repayment requirements pending negotiations.

Proposed new §371.1709(g) sets forth the requirements for a provider to request an appeal of the audit or review findings.

Proposed new §371.1709(h) provides that the final audit or review report will become final and unappealable if OIG does not receive a response pursuant to subsections (d)(1), (d)(2), or (g) within 15 days after the provider's receipt of the report. The effect of the audit or review findings is to create a final debt in favor of the state. The state may place one or more vendor holds on the provider's payment claims and accounts if payment is not received in full or a final payment plan agreement is not executed by the parties within 60 days of receipt after the final audit or review report or final disposition of the appeal, if any. The OIG may toll the imposition of any vendor holds pending negotiations of the terms of a payment plan.

The proposed amendment to §371.1647 provides, in subsection (a), that an exception to the notice requirements for a recoupment is set forth in subsection (f). New subsection (f) provides that the only written notices required for a recoupment of dollars identified in an audit conducted pursuant to §371.1709 are the final notice of overpayment and a copy of the final audit report. The proposed amendment also includes edits to several rule cross-references to provide the title of the cross-referenced sections.

Fiscal Note

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that there are insufficient data to predict any adverse fiscal impact to state government. The new rules provide procedures for enforcement of the new CMS Medicaid Integrity Group's audit initiative under which CMS and/or its contractors will identify overpayments but will require the states to recoup the funds. These activities could increase workloads for the State OIG Sanctions division. Since this is a new initiative there are no data to provide a related cost estimate. Without the new rule, there could be additional cost related to litigations against the state. Moreover, because the new rule provides procedures for the administration and enforcement of overpayments and collections identified by federal audits, the MIG audit initiative may result in increased revenue to the State. Since this is a new program, the federal projections range from a half-million to many millions.

Small Business and Micro-business Impact Analysis

There is no anticipated adverse economic effect on small businesses or micro-businesses, or on businesses of any size, as a result of administering the proposal. These rules are procedural in nature. The rules do not impose any new requirements on providers or change any substantive Medicaid policies.

Cost to Persons and Effect on Local Economies

HHSC does not anticipate that there will be any economic cost to persons who are required to comply with this proposal. The proposal will not affect a local economy. These rules will not have an impact on local employment.

Public Benefit

Karen Nelson, Chief Counsel for the Office of Inspector General, determined that for the first five years the proposal is in effect, the public benefit expected as a result of enforcing the proposal is that state employees responsible for recouping Medicaid overpayments pursuant to federal audits may use a more efficient process with an anticipated reduction in legal costs for the State and the provider.

Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

Takings Impact Assessment

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her private real property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Texas Government Code.

Public Comment

Written comments on the proposal may be submitted to Lisa Barragan, Texas Health and Human Services Commission, P.O. Box 85200, MC H-400, Austin, Texas 78708-5200; by fax to (512) 833-6484; or by e-mail to lisa.barragan@hhsc.state.tx.us within 30 days of publication in the *Texas Register*.

DIVISION 4. ADMINISTRATIVE SANCTIONS

1 TAC §371.1647

Legal Authority

The amendment is proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient operation of the Medicaid program; and Texas Government Code §531.021(b), which provides HHSC with the authority to propose and adopt rules governing the determination of Medicaid reimbursements.

No other statutes, articles or codes are affected by the proposal.

§371.1647. *Notice of Sanction.*

(a) The Office of the Inspector General (OIG) provides written notice of a potential sanction(s) by certified mail with return receipt or by facsimile transmission with confirmation page. Except as provided by subsection (f) of this section, a [A] recoupment requires both an initial written notice of potential sanction and a subsequent written notice of final sanction; therefore, any additional sanctions of any type in the

same notice letter with a recoupment will require both notice letters. Additional provisions regarding notice of an exclusion are provided in §371.1649 of this subchapter (relating to Exceptions to Prior Notice of Exclusion, Cancellation of Contract or Provider Agreement, and Restricted Reimbursement). If there is no specific requirement in Subchapter G for a written notice of a potential sanction for an individual specific situation, the only sanction notice letter required is the notice of final sanction.

(b) Potential sanction. The written notice of potential sanction includes:

- (1) a description of the potential sanction;
- (2) the basis of the potential sanction;
- (3) the effect of the potential sanction;
- (4) its duration (duration could be indefinite or until a certain event occurred), if appropriate; and
- (5) if the sanction is an exclusion, ~~the notice must contain~~ a description of the method the provider uses to request reinstatement, unless the exclusion is permanent.

(c) In the case of a recoupment, a statement of the provider's or person's right to request a formal appeal hearing of the potential sanction is not provided in the initial notice letter, since this is not a final sanction. A statement of the provider's or person's right to request a formal appeal hearing of the final sanction will be subsequently provided with the final written notice of OIG's ~~the Inspector General's~~ final overpayment determination.

(d) Final sanction. The written notice of final sanction includes:

- (1) a description of the final sanction;
- (2) the basis of the final sanction;
- (3) the effect of the final sanction;
- (4) its duration (duration could be indefinite or until a certain event occurred), if appropriate;
- (5) a statement of the provider's or person's right to request a formal appeal hearing of the sanction; and
- (6) if the sanction is an exclusion, ~~the notice must contain~~ a description of the method the provider or person uses to request reinstatement, unless the exclusion is permanent.

(e) The sanctions will take effect in the following manner:

(1) Recoupment--The provider or person will receive a notice of a potential sanction to impose recoupment. The provider or person may request an informal review, to informally discuss the issues and allow the provider or person an opportunity to provide information they deem appropriate. Subsequently, OIG ~~the Inspector General~~ will make a final determination regarding the amount to be recouped. Upon that determination, OIG ~~the Inspector General~~ will send final determination and notice of recoupment to the provider or person.

(2) Payment hold--A payment hold on payments of future claims submitted for reimbursement will be imposed, without prior notice, as specified in §371.1703(b) of this subchapter (relating to Recovery of Overpayments). The provider will be notified of the payment hold not later than the fifth (5th) working day after the date the hold is imposed. The payment hold will remain in effect until all issues regarding the provider's billing practices are finally resolved, including all litigation and judicial processes.

(3) Restricted reimbursement--The provider will receive final notice of intent to impose restricted reimbursement unless the provider meets one of the exception criteria enumerated in §371.1649 of this subchapter and §371.1651 of this subchapter (relating to Restricted Reimbursement and Immediate Sanctions Due to Health and/or Safety). The provider may request an informal review and/or an administrative appeal hearing as described in paragraph (1) of this subsection.

(4) Exclusion--The provider or person will receive a notice of potential imposition of exclusion unless the provider meets one of the exception criteria enumerated in §371.1649 and §371.1651 of this subchapter. The provider or person may request an informal review, to informally discuss the issues and allow the provider or person an opportunity to provide information they deem appropriate. This process will occur before OIG ~~the Inspector General~~ submits its final notice of exclusion to the provider or person. At that time, the provider or person may request an administrative appeal hearing as described in §371.1669 of this subchapter (relating to Notice of Appeal) ~~title~~.

(5) Cancellation of contract or provider agreement--The provider or person will receive a notice of potential cancellation of contract or provider agreement unless the provider meets one of the exception criteria enumerated in §371.1649 and §371.1651 of this subchapter. The provider may request an informal review as described in paragraph (1) of this subsection. This process will occur before OIG ~~the Inspector General~~ submits its final notice of cancellation of contract or provider agreement to the provider or person. If a provider or person is excluded who also has a contract or provider agreement, prior notice of the cancellation of contract or provider agreement is not a requirement, since the scope and effect of the exclusion, as specified in §371.1673 of this subchapter (relating to Scope and Effect of Exclusion), does not allow that person to participate in Titles XIX, V, and XX programs. The contract or provider agreement in that instance would be cancelled effective the effective date of the exclusion.

(f) In the case of an audit that has been performed in accordance with §371.1709 of this subchapter (relating to Recoupment of Overpayments Pursuant to Audit), recoupment of questioned costs or other audit findings by OIG does not require two notice letters. The OIG will provide written notice of the final sanction along with a copy of the final audit report.

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100001

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 424-6900



DIVISION 5. RECOVERY OF OVERPAYMENTS

1 TAC §371.1709

Legal Authority

The new rule is proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Human Resources

Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient operation of the Medicaid program; and Texas Government Code §531.021(b), which provides HHSC with the authority to propose and adopt rules governing the determination of Medicaid reimbursements.

No other statutes, articles or codes are affected by the proposal.

§371.1709. Recoupment of Overpayments Pursuant to Audit.

(a) The Office of the Inspector General (OIG) may recoup overpayments if the overpayment was identified in an audit that found that claims or cost reports submitted in error resulted in money paid in excess of what the provider is entitled to receive under an HHS program, contract, or grant.

(b) In this section:

(1) "Audit" means a financial audit, attestation engagement, performance audit, or compliance audit, conducted by or on behalf of the state or federal government. An audit may or may not include site visits to the provider's place of business.

(2) "Auditor" means the qualified person, persons, or entity performing the audit on behalf of the state or federal government.

(3) "Field work" may include site visits to the provider as well as consultation with expert reviewers, HHS staff subject matter experts, and other state or federal agencies.

(4) "Qualified" means possessing integrity, objectivity, independence from personal and external impairments, professional judgment, and competence as defined in the Generally Accepted Governmental Auditing Standards (GAGAS) issued by the Comptroller General of the United States.

(c) Audits conducted or enforced by OIG will be conducted and reported in accordance with GAGAS or other appropriate standards recognized by the United States Government Accountability Office.

(1) Audit procedures. The auditor must:

(A) limit the period covered by an audit to five years;

(B) notify the provider, and the provider's corporate headquarters if the provider is incorporated, of the impending audit not later than the seventh day before the date the site visit, if any, begins, except when an element of surprise is critical to the audit objective, such as surprise audits, cash counts, or fraud-related procedures;

(C) if an exit conference is conducted after the site visit, allow the provider to:

(i) respond to questions by the auditor; and

(ii) comment on the initial findings of the auditor;

and

(D) permit the provider to produce, for consideration, documentation to address any exception found during an audit not later than the 10th day after the date the exit conference, if any, is completed, or by a later date as specified by the auditor.

(2) Audit report.

(A) After the field work is completed, the auditor must deliver a draft audit report to the provider by certified mail with return receipt, by facsimile transmission with confirmation page, or by courier-receipted delivery (or any other verifiable means).

(B) The auditor must permit the provider to submit, for consideration, a written management response to the draft audit report or to informally appeal the findings in the draft audit report. The provider must submit the written management response or request for an informal appeal by a date determined by the auditor, but not later than the 30th day after the draft audit report is delivered to the provider. The informal appeal will consist of a desk review by the auditing division or entity.

(C) The auditor may elect whether to issue a revised draft audit report or to issue a final report. If deemed appropriate by OIG, the auditor will revise the draft audit report as needed to incorporate the management responses and reconsideration of any initial findings. The auditor, in its discretion, may consider additional management or HHS agency staff responses to the revised draft audit report and make additional revisions. If additional revisions are made that modify the basis or rationale for determining that an overpayment exists or that increase the overpayment amount, the provider will be permitted to submit for consideration a written management response to the revisions or to informally appeal the revised findings.

(D) The auditor must deliver the final audit report to the provider by certified mail with return receipt, by facsimile transmission with confirmation page, or by courier-receipted delivery (or any other verifiable means). The report must include:

(i) a statement of the auditor's compliance with GAGAS;

(ii) the management response, which may be summarized;

(iii) the final determination of overpayment amount;

(iv) reconsideration results and the revisions of any initial findings; and

(v) a recitation of the provider's rights and obligations as set forth in subsections (d) - (h) of this section.

(d) The provider must refund the overpayment within 60 calendar days after receipt of the final audit report, unless the provider:

(1) timely requests and executes a final payment plan agreement that has been approved by OIG; or

(2) timely requests an administrative hearing appeal.

(e) For purposes of refunding the federal share of any questioned costs, the final audit report constitutes the State's written notice of the identified overpayment amount. The date of the written notice of overpayment accompanying the final audit report constitutes the date of discovery. If the provider appeals the final audit report, the state will issue a written notice of the identified overpayment amount at the conclusion of the appeal, and the date of that written notice will constitute the date of discovery.

(f) To request a final payment plan agreement, the provider must file a written request for a final payment plan agreement with OIG within 15 calendar days after receipt of the final audit report. The request must be signed by the provider or its attorney and contain a statement that the provider agrees not to dispute the findings of the final audit report for purposes of the overpayment recoupment sanction at issue and waives its right to an appeal. The request for a final payment plan agreement is not binding upon OIG. A resolution is not final until the provider and OIG execute a written final payment plan agreement. The OIG retains discretion to determine when payment plan negotiations have been exhausted. A request for a final payment plan agreement does not abate the imposition of a final debt in accordance with subsection (h) of this section. Provided, however, that the OIG may

agree to toll the repayment obligation deadline pending negotiations of payment plan terms. The OIG will send written notice to the provider of any decision to toll the repayment obligations or to discontinue further payment plan negotiations.

(g) To request an appeal of the final audit report, the provider must file a written request for an appeal with OIG within 15 calendar days after receipt of the final audit report. The request must:

(1) be signed by the provider or its attorney; and

(2) contain a statement as to the specific issues, findings, or legal authority in the final audit report being challenged, and the basis for the provider's contention that the specific issues or findings and conclusion are incorrect.

(h) The final audit report becomes final and unappealable if no response is filed with the OIG within 15 calendar days after the provider's receipt of the final audit report. The effect of the audit finding is to create a final debt in favor of the State of Texas. If a final payment plan agreement is not executed by all parties or full restitution is not received within 60 calendar days after receipt by the provider of the final audit report or final disposition of an administrative appeal, one or more vendor holds may be placed on the provider's payment claims and account. Provided, however, that the OIG may agree to toll the imposition of any vendor holds pending negotiations of payment plan terms. The OIG will send written notice to the provider of any decision to toll the imposition of any vendor holds.

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100002

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 424-6900



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 13. GRAIN WAREHOUSE

4 TAC §§13.2, 13.6, 13.7, 13.14 - 13.16, 13.18

The Texas Department of Agriculture (the department) proposes amendments to §§13.2, 13.6, 13.7, 13.14 - 13.16, and 13.18, concerning regulation of public grain warehouses. The proposed amendments will increase protection for grain depositors and clarify the bond claim process. The amendments are the result of a recent grain warehouse program review conducted by a Grain Warehouse Task Force, appointed by the Commissioner of Agriculture.

The proposed amendment to §13.2 mirrors federal grain warehouse requirements by allowing a grain warehouse operator to make a change in a daily position report from stored grain to company owned grain, when supported by a proof of payment instead of the current requirement of a canceled check. This

amendment will allow a warehouse operator to take possession of stored grain once payment has been made for stored grain.

The proposed amendment to §13.6 clarifies that the only acceptable forms of financial statements that may be submitted to the department are either a reviewed or audited financial statement from a certified public accountant. The proposed amendment would eliminate a notarized financial statement on a department approved form. The proposed amendment will provide the most accurate required financial information to the department in order to determine net worth financial stability.

The proposed amendment to §13.7 eliminates proration of fees. The department no longer prorates licensing fees since licenses are now issued with staggered expiration dates throughout the year, instead of one annual expiration date.

The proposed amendments to §13.14 and §13.16 clarify requirements.

The proposed amendment to §13.15 removes requirements that conflict with the Texas Business Code.

The proposed amendment to §13.18 clarifies the time at which price for all commodities is fixed for claims on a warehouse operator's bond in order to compute a fair pro-rata share of bond proceeds to all depositors with outstanding claims.

Rick Garza, Coordinator for Commodity Programs, has determined that for the first five years the amended sections are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amended sections.

Mr. Garza has also determined that for each year of the first five years the amended sections are in effect, the public benefit anticipated as a result of enforcing or administering the amended sections will include a greater protection for depositors who store grain in licensed grain warehouses. The anticipated economic cost to individuals, micro businesses, and small businesses affected by the proposal will be the cost of obtaining a reviewed or audited financial statement by a certified public accountant. The cost will vary depending on the size of the grain warehouse and the type of audit that is conducted. The department estimates the cost of a reviewed or audited financial statement to be \$4,000 to \$6,000 for a licensed public grain warehouse. For some grain warehouse operators, there will be no economic impact as the operator has been previously submitting a reviewed or audited financial statement to adhere to the requirement.

Comments on the proposal may be submitted to Rick Garza, Coordinator for Grain Warehouse 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 amendments are proposed under the Texas Agriculture Code (the code), §14.015, which provides the department with the authority to adopt rules necessary for the administration of requirements and procedures for the operation of a grain warehouse; and the code §14.023, which provides the department with the authority to provide by rule for an annual license fee for a grain warehouse license.

The code, Chapter 14 is affected by this proposal.

§13.2. General Requirements.

In addition to any other obligations set out in the Texas Agriculture Code (the code), Chapter 14, Subchapter A, or this chapter [~~these rules~~], the warehouse operator shall be responsible for the general

obligations of this section. In the event of a conflict between these general obligations and the obligations established elsewhere, the code shall control first and then the most specific provision which provides the greatest protection to the depositor or other customer of the warehouse. These responsibilities are in addition to any provided in the code.

(1) Warehouse operators shall comply with all applicable provisions of the code, Chapter 14, this chapter [these rules], and all other orders, notices, or requests for reports or other information.

(2) - (6) (No change.)

(7) The daily position report shall declare all grain in the warehouse or in temporary storage as either received grain, open storage grain including terminal, or company-owned grain including terminal storage. Company owned grain may be reported paid and unpaid, separately or combined in the daily position report. Any change on the daily position report shall be supported by at least one of the following documents:

(A) (No change.)

(B) proof of payment;

~~[(B) a canceled check;]~~

(C) - (D) (No change.)

(8) - (15) (No change.)

(16) Records must be legible, correct, and accurate ~~[and able to be understood without asking the warehouse operator, authorized agent or other employee].~~

(17) - (18) (No change.)

§13.6. *Financial Statements.*

(a) A warehouse operator shall file with the department a financial statement showing the net worth of the operator's grain warehouse business as part of the operator's application for a new license and thereafter shall file with the department a new financial statement, reflecting the net worth of the operator's grain warehouse business at the end of the operator's most recent fiscal year, no later than the 90th day following the end of the operator's most recent fiscal year.

(b) Through March 31, 2011, the financial statement required by subsection (a) of this section must be notarized and on the most current version of department form RGW-306 Financial Statement, unless the statement is a reviewed or audited financial statement prepared and signed by an independent certified public accountant. Effective April 1, 2011, the financial statement required by subsection (a) of this section must be a reviewed or audited financial statement prepared and signed by an independent public accountant.

(c) The required reviewed or audited financial statement shall be prepared in accordance with the generally accepted accounting principles for financial statements and related information established by the American Institute of Certified Public Accountants and shall include, but not be limited to, each of the following:

(1) a balance sheet;

(2) a statement of income (profit and loss);

(3) a statement of retained earnings;

(4) a statement of cash flows; and

(5) all accountant certifications, assurances, opinions, comments, and notes to the financial statement.

(d) The financial statement required by this section shall be accompanied by:

(1) a certification, under penalty of perjury, that the financial statement, as prepared, accurately reflects the financial condition of the operator's grain warehouse business as of the date designated, and fairly represents the result of operations for the period designated;

(2) a detailed list of company-owned grain (paid contracted or the operator's own production), unpaid contracted grain, non-collateral received grain, collateral received grain, open storage grain, and grain received on consignment as of the date designated in paragraph (1) of this subsection;

(3) a list of all parties in any pending litigation that claim a monetary judgment against the warehouse operator, the amount of the claim of each such party, and the status of the litigation; and

(4) a list of all final unpaid monetary judgments against the warehouse operator.

(e) If the department has reason to believe that the financial status of the operator's grain warehouse business has changed significantly since the last financial statement was submitted or if the department becomes aware of inaccurate or false information within or information omitted from a submitted financial statement, the department may by written notice require the operator to provide additional financial information and in the case of inaccurate, false, or omitted information may require the operator to submit a new or updated audited financial statement prepared and signed by an independent public accountant.

(f) The notice required by subsection (e) of this section shall state the reasons why the department believes the financial status of the operator's grain warehouse business has significantly changed or specify the information the department believes is inaccurate, false, or omitted, as applicable. An operator's disagreement with the information set forth in the notice required by subsection (e) of this section, however, shall not operate to excuse the warehouse operator from complying with the notice.

(g) Temporary storage shall be included in determining net worth bonding requirements and additional net worth bonding may be required before a temporary storage permit is issued.

~~[(a) A notarized financial statement must be submitted on a department-approved form unless it is submitted by an independent certified public accountant.]~~

~~[(b) A warehouse operator has 90 days from the end of the operator's fiscal year to submit a new financial statement to the department.]~~

~~[(c) The most current financial statement shall be on file at the time of license renewal. A license will not be issued or renewed if the warehouse operator fails to file the most current new financial statement by May 31.]~~

~~[(d) For a partnership, all assets subject to suit must be included in the financial statement.]~~

~~[(e) For a corporation, all assets subject to suit must be included in the financial statement. No private assets can be included in this case.]~~

~~[(f) For a sole proprietor, all assets subject to suit must be included.]~~

~~[(g) Temporary storage must meet all financial requirements before a temporary permit may be issued.]~~

§13.7. *Fees.*

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

~~[(e) Proration of fees. Initial application fees shall be prorated based on the remaining months of the license year.]~~

(c) ~~[(d)]~~ Inspection fees. The fee for an annual inspection is \$15.00 for each 10,000 bushels or a fraction of 10,000 bushels of the licensed storage capacity, or \$100.00, whichever is greater.

(d) ~~[(e)]~~ Requested inspections.

(1) The fee for an inspection to increase or decrease licensed storage capacity including temporary storage is \$15.00 for each 10,000 bushels or a fraction of 10,000 bushels of the increase or decrease in storage capacity, or \$100.00, whichever is greater.

(2) The fee for a partial inspection is \$15.00 for each 10,000 bushels or a fraction of 10,000 bushels of the partial facility that is being inspected, or \$100.00, whichever is greater.

(3) A partial inspection that covers issues other than capacity will have a fee of \$100.00.

§13.14. Temporary Storage.

(a) A request to approve temporary storage is a requested inspection and is subject to an inspection fee found in §13.7 of this title ~~[relating [related] to Fees]~~.

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

(g) A temporary permit for temporary storage grain is valid ~~[good]~~ for 90 days and may be renewed if the department determines that quality of grain has not been affected by weather conditions.

(h) - (i) (No change.)

(j) At any time the warehouse operator determines that more temporary storage is needed, he will have 10 days from the date the amount exceeded the temporary license to file ~~[turn in]~~ additional bonding and insurance.

(k) - (m) (No change.)

§13.15. Shortage of Grain.

(a) - (f) (No change.)

~~[(g) If a shortage is corrected by payment with a check that is tendered for cashing within 30 days of its receipt by the depositor, the shortage will be considered not corrected if the check is returned to the depositor for insufficient funds.]~~

§13.16. Customer Protection.

(a) (No change.)

(b) Documentation of charges at time of payment or invoicing shall be individually indicated ~~[down]~~ for each individual charge.

(c) (No change.)

§13.18. Depositor Claims on Warehouse Operator's Bond.

(a) Price of the commodities for the purpose of calculating a claim on a bond becomes fixed the date the department becomes aware or is notified of the grain warehouse failure.

~~[(a) Time at which claim amount becomes fixed is the day on which the claim was submitted to the department.]~~

(b) A depositor may make a claim 2 years from the expiration date of the warehouse-licensing year for ~~[that]~~ the grain that was entered in storage.

(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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100009

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 463-4075

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TITLE 22. EXAMINING BOARDS

**PART 18. TEXAS STATE BOARD OF
PODIATRIC MEDICAL EXAMINERS**

**CHAPTER 371. EXAMINATION AND
LICENSURE**

22 TAC §371.25

The Texas State Board of Podiatric Medical Examiners proposes amendments to §371.25 concerning Residency Requirements, Program Responsibilities and Temporary Licensure. The amendments to §371.25 are proposed to clarify the responsibilities of a residency program, its directors and its residents (persons in training) by ensuring that limitations are adhered to. Such limitations are designed to ensure proper supervision of residents by their directors, that a program actually begun/matriculated is completed, and that residents are not utilized as fully licensed "Active" podiatrists while participating in their training program. Lastly, the amendments are proposed to ensure that while podiatry residents may prescribe controlled substances while in training, that they can only do so under the training facilities' DPS and DEA drug registration while in the confines of the supervised residency training program.

Hemant Makan, Executive Director, has determined that for each year of the first five years the amended rules are in effect, there will be no fiscal implications for state or local government as a result of adopting the amended sections.

Mr. Makan has also determined that for each year of the first five years the amended rules are in effect, the public benefit anticipated as a result of adopting the amendments to §371.25 will be to promote better patient safety by clarifying supervision responsibilities of residents by their program directors. In addition, these proposed amendments are designed to ensure that an individual who has "dropped out" of a residency program without meeting its matriculated obligations is not qualified as meeting residency requirement standards for permanent licensure. There will be no effect on small or micro-businesses. There are no economic costs to persons who are required to comply with the section.

Comments on or about the proposed amendments may be submitted to Janie Alonzo, Staff Services Officer V, Texas State Board of Podiatric Medical Examiners, P.O. Box 12216, Austin, Texas 78711-2216, Janie.Alonzo@foot.state.tx.us.

The amendments are proposed under Texas Occupations Code, §202.151, which provides the Texas State Board of Podiatric Medical Examiners with the authority to adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the laws of this state, and the law of the United States to govern its proceedings and activities, the regu-

lation of the practice of podiatry and the enforcement of the law regulating the practice of podiatry.

The proposed amendments to §371.25 implement Texas Occupations Code Chapter 202, Subchapter F, License Requirements.

§371.25. Residency Requirements, Program Responsibilities and Temporary Licensure.

(a) All residency programs requesting temporary licenses for the podiatric physicians participating in the program must meet all American Podiatric Medical Association/Council on Podiatric Medical Education (APMA/CPME) requirements for accreditation.

(b) The residency director will be held responsible for the entire program including but not limited to:

(1) ensuring that the temporary licensee is practicing within the scope of the residency program requirements;

(2) ensuring that the temporary licensee has read and understood the Act and Rules governing the practice of podiatric medicine; and

(3) ensuring that all residency program attendees are properly licensed with the Board prior to participation in the program pursuant to §371.5(g) of this title (Applicant for License--Temporary License). A temporary license to practice podiatric medicine expires on June 30 of each year.

(c) Within thirty (30) days of the start date of the program each year, the residency director must report to the Board a list of all residents enrolled in the program, the names of all of the directors in the program and which program each individual is enrolled in.

(d) Licensure.

(1) All initial residency applicants shall complete the entire application for Temporary License for enrollment in an accredited graduate podiatric medical education (GPME) program.

(2) On application, an established Texas resident who has been initially enrolled and licensed in an accredited GPME program pursuing a second or third year residency shall renew his unexpired license by:

(A) paying to the Board before the expiration date of the license the required renewal fee;

(B) submitting proof of having successfully completed a course in cardiopulmonary resuscitation and provide a current certification to that effect;

(C) completing the "Memorandum of Understanding for Approved Residence Program" (form P6);

(D) completing the "Certificate of Acceptance for Post-graduate Training Program" (form P10).

(3) An applicant who fails to renew a temporary license prior to expiration will be required to submit an entirely new application for renewal.

(4) Established Texas Residents pursuing a second or third year residency will be issued a new Temporary license number upon annual renewal.

(e) The annual renewal application notification will be deemed to be written notice of the impending license expiration forwarded to the person at the person's last known address according to the records of the Board.

(f) Restrictions and Limitations.

(1) As provided under §371.5(g)(3) of this title, a temporary licensee granted a temporary license for the purpose of pursuing a GPME program in the State of Texas shall not engage in the practice of podiatric medicine, whether for compensation or free of charge, outside the scope and limits of the GPME program in which he or she is enrolled.

(2) A temporary license holder shall not be considered to be a fully "Active" licensed podiatrist as provided, in part, under §378.13 of this title (License Renewal) who independently practices podiatric medicine without supervision. A temporary license holder is a person in training and is limited by the GPME program in which he or she is enrolled for residency based supervised patient encounters, supervision of which is designed to protect patients and the citizens of Texas.

(3) A person enrolled in a GPME program at all times must hold a Temporary License and shall not be considered to be qualified for an "Active" license until all residency program requirements have been completed and fulfilled as certified by the GPME program residency director, and all other requirements for "Active" licensure have been attained.

(4) A temporary license holder and an applicant for license under §371.7(g) of this title (Qualifications for Licensure) are not qualified by the Board as meeting the statutory and regulatory requirements for "Active" licensure until the GPME program which was actually begun/matriculated is successfully completed.

(5) All temporary license holders are restricted to the supervised practice that is part of and approved by the accredited GPME training program. Residents are not allowed to practice podiatric medicine that is outside of the approved program.

(6) Residents enrolled in an accredited GPME residency (training) program who hold a "Temporary" license (i.e. No. "T##-####") may prescribe controlled substances under the (training) facility's Texas Department of Public Safety (DPS) and U.S. Drug Enforcement Administration (DEA) registration and remain subject to the supervision of the (training) program and residency director. Under no circumstances are residents allowed to prescribe controlled substances for purposes outside of the approved residency (training) program.

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.

Filed with the Office of the Secretary of State on December 30, 2010.

TRD-201007423

Janie Alonzo

Staff Services Officer V

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 305-7000



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 23. ADMINISTRATIVE PROCEDURES

34 TAC §23.7, §23.8

The Teacher Retirement System of Texas (TRS or system) proposes amendments to 34 TAC §23.7 and §23.8, concerning TRS' Code of Ethics for Contractors (Code of Ethics or Code) and related materials. The proposed amendments are submitted by TRS' executive director.

Section 23.7 adopts by reference the Code of Ethics (formerly the Code of Ethics for Consultants, Agents, Financial Providers and Brokers) and requires compliance with it. Section 825.212(e) of the Government Code requires the Board of Trustees (board) of TRS by rule to adopt standards of conduct applicable to TRS consultants and advisors who likely will be paid over \$10,000 in a year or who provide important investment advice. In September 2010, the board adopted a revised Code of Ethics for Contractors. Contractors are Agents, Brokers, Consultants, Financial Advisors, and Financial Services Providers, as defined by the Code. The proposed amendments to §23.7 would update the version of the Code adopted by reference and would state that TRS has filed a copy of the latest version of the Code with the Office of the Secretary of State, such filing being in accordance with that office's procedures. (Existing §23.7 explains how to obtain a copy of the Code from TRS.) Other minor changes would clarify references to the revised version of the Code being adopted by reference and, as applicable, make such references consistent with wording in the related rule, §23.8, which concerns ancillary reporting materials used in implementing the Code.

Section 23.8 adopts by reference the Expenditure Reporting Memorandum (reporting memorandum) and Expenditure Reporting Form for Contractors (reporting form) and requires Contractors to report expenditures made on behalf of any one TRS trustee or employee. Section 825.212(g) of the Government Code requires the board by rule to require consultants and advisors to the retirement system and brokers to file regularly with the system a report detailing any expenditure of more than \$50 made on behalf of a trustee or employee of the system. In September 2010, the board adopted a revised reporting form. In November 2010, the executive director approved under the Code a revised reporting memorandum, which is addressed to Contractors. The proposed amendments to §23.8 would do the following: (1) expressly include the statutorily required reporting of expenditures of more than \$50, in addition to any other reporting requirement under the Code of Ethics; (2) adopt by reference the latest versions of the reporting memorandum and reporting form; and (3) state that copies of the latest versions of the memorandum and form have been filed with the Office of the Secretary of State. The existing rule already explains how copies of the reporting memorandum and form may be obtained from TRS. Other minor changes would clarify references to the revised versions of the reporting memorandum and form and, as applicable, make such references consistent with the wording used in connection with the updated Code adopted by reference in §23.7.

Ronnie G. Jung, TRS Executive Director, estimates that, for each year of the first five years that the proposed amendments to §23.7 and §23.8 will be in effect, there will be no fiscal implications to state or local governments as a result of administering the proposed amended rules.

For each year of the first five years that the proposed amended rules will be in effect, Mr. Jung has determined that the public benefit will be to provide through the updated rules the latest versions of the Code of Ethics and related materials.

Mr. Jung has determined that there is no economic cost to entities or persons required to comply with the proposed amendments. The proposed amendments do not impose additional reporting or other requirements that would increase the cost of compliance. Rather, the revised Code of Ethics, which proposed §23.7 adopts by reference, provides for implementation of an electronic compliance system for Contractors that would facilitate efficient administration of the Code.

Mr. Jung has determined that there will be no effect on a local economy because of the proposed amendments, and therefore no local employment impact statement is required under §2001.022 of the Government Code.

Mr. Jung has also determined that there will be no direct adverse economic effect on small businesses or micro-businesses within TRS' regulatory authority as a result of the proposed amended rules; therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under §2006.002 of the Government Code.

Comments may be submitted in writing to Ronnie Jung, Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

Statutory Authority: The amendments are proposed under the following section of the Government Code: Section 825.102, which authorizes the board to adopt rules for the administration of the funds of the retirement system and for the transaction of the business of the board.

Cross-Reference to Statute: Section 825.212(e) and (g) of the Government Code, concerning the Code of Ethics for Contractors and related reporting requirements.

§23.7. Code of Ethics for Contractors [Consultants, Agents, Financial Providers and Brokers].

Any Consultant, Agent, Financial Advisor, or Financial Services Provider doing business with the Teacher Retirement System of Texas (TRS), or Broker approved to do business with TRS, must comply with TRS' [TRS's] Code of Ethics for Contractors [Consultants, Agents, Financial Providers and Brokers] (the "Code of Ethics") [as amended from time to time]. The Board of Trustees of TRS (the board) adopts by reference the Code of Ethics as most recently revised to be effective September 17, 2010 [most recently amended on March 9, 2006]. Capitalized words appearing in this section have the same meaning assigned to them in the Code of Ethics. A copy of the most recently revised Code of Ethics has been filed with the Office of the Secretary of State in Austin. Copies of the Code of Ethics are available from TRS at 1000 Red River Street, Austin, Texas 78701-2698, (512) 542-6400. Also, a copy of the Code of Ethics can be found on [http] and printed from the TRS website [Web site], www.trs.state.tx.us, in the information regarding TRS Ethics.

§23.8. Expenditure Reporting by Consultants, Agents, Financial Advisors, Financial Services Providers, and Brokers.

Consultants, Agents, Financial Advisors, and Financial Services Providers doing business with the Teacher Retirement System of Texas (TRS), and Brokers approved to do business with TRS, must report expenditures made of more than \$50 on behalf of any one trustee or employee of TRS and must file any other report required by the Code of Ethics for Contractors (Code of Ethics), which is adopted by reference in §23.7 of this title (relating to Code of Ethics for Contractors). The reports must be filed no later than April 15 of each year with the Executive Director and must comply with the Code of Ethics and the

Expenditure Reporting Memorandum (reporting memorandum) and the Expenditure Reporting Form for Contractors (reporting form) as promulgated and applicable under the Code of Ethics for Contractors and revised [as amended] from time to time. TRS adopts by reference the reporting memorandum as most recently revised November 2, 2010 and the reporting form as most recently revised September 17, 2010. [TRS adopts by reference the Expenditure Reporting Memorandum and the Expenditure Reporting Form for Contractors as most recently amended to be effective January 1, 2004.] Capitalized words appearing in this section have the same meaning assigned to them in the Code of Ethics [for Consultants, Agents, Financial Providers and Brokers], as revised [amended] from time to time. Copies of the most recently revised reporting memorandum and reporting form have been filed with the Office of the Secretary of State in Austin. Copies of the reporting memorandum and the reporting form are available from TRS at 1000 Red River Street, Austin, Texas 78701-2698, (512) 542-6400. Also, copies of the reporting memorandum and the reporting form [these two forms] can be found on [it] and printed from the TRS website [Web site], www.trs.state.tx.us, in the information regarding TRS Ethics.

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.

Filed with the Office of the Secretary of State on December 28, 2010.

TRD-201007383

Ronnie Jung

Executive Director

Teacher Retirement System of Texas

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 542-6438



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 97. SECURITY AND CONTROL

SUBCHAPTER A. SECURITY AND CONTROL

37 TAC §97.47

The Texas Youth Commission (TYC) proposes new §97.47, concerning self-referrals to the security unit. The new rule will establish service delivery and program requirements for youth who request temporary placement in security units at TYC's high restriction facilities.

Janie Ramirez Duarte, Chief Financial Officer, has determined that for each year of the first five-year period the section is in effect, there will be no significant fiscal impact for state or local government as a result of enforcing or administering the section.

James Smith, Director of Youth Services, has determined that for the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be: (1) protection from harm for TYC youth; (2) compliance with nationally recognized accreditation standards; (3) provision of a mechanism for youth to interrupt potentially escalating patterns of behavior; and (4) provision of individualized interventions and support to help youth to address temporary, situational stressors.

There will be no effect on small businesses or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted within 30 days of the publication of this notice to Steve Roman, Policy Coordinator, Texas Youth Commission, P.O. Box 4260, Austin, Texas 78765, or email to policy.proposals@tyc.state.tx.us.

The new rule is proposed under (1) Human Resources Code §61.034, which provides TYC with the authority to adopt rules appropriate to the proper accomplishment of its functions; and (2) Human Resources Code §61.045 which assigns TYC with responsibility for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by the commission.

The proposed rule implements Human Resources Code, §61.034.

§97.47. Self-Referral to Security Unit.

(a) Purpose. The purpose of this rule is to provide for the temporary placement of youth who request placement in a security unit.

(b) Applicability. This rule applies only to high restriction facilities operated by the Texas Youth Commission.

(c) General Provisions.

(1) The security unit may be used as a temporary placement until the youth can be safely returned to his/her assigned living unit or another appropriate housing or facility assignment can be arranged.

(2) While placed in the security unit on a self-referral, youth will participate in scheduled programming in accordance with the individual case plan and, if applicable, the individualized education plan.

(3) If a youth claims a need for protection from harm, all reasonable actions will be taken to ensure the safety of the youth, including the following actions as indicated by a threat assessment:

(A) immediate implementation of enhanced supervision strategies;

(B) immediate separation of the youth from the source of the threat;

(C) referral to the Office of Inspector General's Incident Reporting Center for investigation;

(D) notification of the chief local administrator; and/or

(E) dorm or facility transfer.

(d) Referral Process.

(1) A youth may request a self-referral to the security unit. Requests may be verbal or written and may be made to any staff member.

(2) Case management and/or supervisory staff will meet with the youth to discuss the circumstances regarding the request and, if appropriate, recommend alternatives to self-referral.

(3) Staff may not deny the youth's request for a self-referral to the security unit, unless self-referrals have been temporarily disallowed by the facility administrator due to an ongoing facility disruption.

(e) Service Delivery and Programming Requirements.

(1) While in the security unit on self-referral, youth shall be provided:

(A) psychological and medical services as appropriate;
(B) adequate access to restroom facilities and drinking water;

(C) access to shower and hygiene routine at least once every 24 hours;

(D) the same food, including snacks, prepared in the same manner as for other youth, except for special diets that are prescribed on an individual basis by a physician, dentist, mental health professional, or approved by a chaplain;

(E) the ability to earn privileges;

(F) access to educational services in accordance with the youth's enrolled courses and, if applicable, the youth's individualized education plan; and

(G) one hour each day of large muscle exercise out of the room or in an enclosed outdoor recreation area.

(2) A caseworker will meet with the youth daily to:

(A) assess the youth's status and make referrals to a mental health professional as appropriate;

(B) discuss strategies and offer opportunities for returning to the general population; and

(C) ensure that all required services and programming are being delivered.

(3) Within one workday after admission to the security unit on self-referral, a caseworker will, in consultation with members of the youth's multi-disciplinary team and a mental health professional, develop a written supervision and reintegration plan for the youth. The plan will include:

(A) strategies for addressing the threat of harm or coping with the circumstances giving rise to the request for the self-referral;

(B) requirements for enhanced supervision, if appropriate;

(C) a schedule for reintegrating with the general campus population; and

(D) a safe housing re-assessment, as described in §85.24 of this title.

(f) Release from the Security Unit.

(1) Upon a youth's request or agreement to be released from the security unit, the youth shall be granted release as soon as reasonably possible.

(2) Release from the security unit prior to the development of the supervision and reintegration plan requires approval from the facility administrator or his/her designee. If the facility administrator or designee disapproves a youth's request for release from the security unit prior to the completion of the supervision and reintegration plan, the facility administrator or designee must ensure that a supervision and reintegration plan is completed and the youth is released within 24 hours after the youth's request.

(3) Upon a youth's release from the security unit, the youth's caseworker or other designated staff will determine which components of the youth's supervision plan will be continued after the youth's return to the general campus population. The youth will

receive follow-up psychological services if directed by a mental health professional.

(g) Review and Oversight.

(1) The director of security or his/her designee will counsel each youth admitted to the security unit on a self-referral each day.

(2) Youth may not remain in the security unit on self-referral beyond 72 hours after admission without the authorization of the facility administrator or designee. Such authorization is required every 24 hours thereafter.

(3) If a youth has not requested or agreed to release within five calendar days after admission to the security unit on self-referral, the facility administrator must consult with the Central Office division director over youth services or his/her designee to discuss reintegration strategies, service delivery and counseling activities, youth behavior, and possible dorm or facility transfer. Such consultation is required at least once every 72 hours thereafter until the youth is released from the security unit.

(4) The youth's multi-disciplinary treatment team will monitor each youth's pattern of self-referrals to the security unit for indications of ongoing or unresolved issues. The multi-disciplinary treatment team will address any such issues through case plan objectives, clinical referrals, report to facility management, or other appropriate interventions.

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.

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007406

Cheryl N. Townsend

Executive Director

Texas Youth Commission

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 424-6014



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 19. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

The Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), new §19.326, concerning safety operations, in Subchapter D, Facility Construction, and the repeal of existing §19.326; and new §19.1914, concerning emergency preparedness and response, in Subchapter T, Administration, and the repeal of existing §19.1914, in Chapter 19, Nursing Facility Requirements for Licensure and Medicaid Certification.

BACKGROUND AND PURPOSE

The Department of Aging and Disability Services (DADS) Regulatory Services division proposes new sections and the repeal of existing sections in Chapter 19, relating to Nursing Facility Requirements for Licensure and Medicaid Certification. DADS initiated these amendments in response to the experiences, challenges faced and lessons learned during recent hurricane seasons. The purpose of the proposal is to ensure the health, safety and well-being of residents during and after a disaster, such as acts of nature, spills of chemical or hazardous materials, major equipment failure, and acts of terrorism.

Proposed new §19.326, regarding facility construction, adds rules regarding inspection, testing, and maintenance of fire alarms, sprinkler systems, and generators, and provides requirements for smoking policies.

Proposed new §19.1914, regarding emergency preparedness and response, requires a nursing facility to develop an emergency preparedness and response plan that addresses the core functions of emergency management and designate an emergency preparedness coordinator - a facility staff person who has the authority to manage the facility's response to an emergency situation in accordance with the plan.

SECTION-BY-SECTION SUMMARY

Proposed new §19.326 clarifies that inspection, testing, and maintenance requirements for the fire alarm, sprinkler systems, portable fire extinguishers, and generators must be in accordance with National Fire Protection Association (NFPA) standards; makes smoking-related requirements consistent with other program rules by prohibiting smoking in certain areas, requiring "No Smoking" signs in those areas, and requiring a specific type of ashtray and container into which ashtrays can be emptied in all areas where smoking is permitted; clarifies that the facility must inform parties of smoking policies through the distribution and posting of smoking policies; requires duplex receptacles powered through the emergency electrical system be installed at resident bed locations where patient-care-related electrical appliances are in use; clarifies that a facility must maintain onsite written record of all tests performed on the lighting system; clarifies that a facility must have a person licensed with the State Board of Plumbing Examiners test gas pipe lines annually for leaks; clarifies that a facility must not allow the storage of volatile or flammable liquids or materials anywhere within the facility; requires alcohol-based hand rub dispensers to be installed in accordance with NFPA 101 standards; clarifies that an existing damper that is no longer required by NFPA 101 may be left in place if it is in a ducted system, permanently secured in the open position, and quick-response sprinklers have been provided for on both sides of the smoke barrier; and clarifies that a facility must implement a Fire Safety Plan that includes provisions in the Operating Features section of the NFPA 101, and Life Safety Code, 2000 Edition, Chapters 18 and 19; and clarifies requirements for a fire safety plan and procedures for reporting fires to DADS.

The proposed repeal of §19.326 deletes the current rules related to safety operations.

Proposed new §19.1914 consists of definitions used in this section; administrative procedures regarding emergency preparedness and response; requirements for emergency preparedness and response plans, including eight core functions; and staff training procedures.

The proposed repeal of §19.1914 deletes the current rules related to disaster and emergency preparedness.

FISCAL NOTE

Gordon Taylor, DADS Chief Financial Officer, has determined that, for the first five years the proposed new sections and repeals are in effect, enforcing or administering the new sections and repeals does not have foreseeable implications relating to costs or revenues of state or local governments.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed new sections and repeals will not have an adverse economic effect on small businesses or micro-businesses because nursing facilities are currently required to have and follow a written emergency preparedness and response plan that addresses the core functions of emergency management. No fiscal implications are expected in revising a facility's written emergency preparedness and response plan to comply with the new requirements in §19.1914, which also address the core functions of emergency management plus training. Also, these proposed amendments are not expected to affect a facility's decision to evacuate or shelter-in-place for an emergency situation; therefore, these proposed amendments are not expected to have a direct impact on a facility's costs associated with a decision it makes to protect its residents and staff involved in an emergency situation.

PUBLIC BENEFIT AND COSTS

Veronda Durden, DADS Assistant Commissioner for Regulatory Services, has determined that, for each year of the first five years the new sections and repeals are in effect, the public benefit expected as a result of enforcing the new sections and repeals is an increased level of detail for ensuring the safety, health, and well-being of facility residents during and after an emergency situation, including a fire.

Ms. Durden anticipates that there will not be an economic cost to persons who are required to comply with the new sections and repeal. The new sections and repeals will not affect a local economy.

TAKINGS IMPACT ASSESSMENT

DADS has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Justin Eaton at (512) 438-2133 in DADS' Regulatory Services. Written comments on the proposal may be submitted to *Texas Register* Liaison, Legal Services-5R019, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030, or street address 701 West 51st St., Austin, TX 78751; faxed to (512) 438-5759; or e-mailed to rulescomments@dads.state.tx.us. To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS' last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 5R019" in the subject line.

SUBCHAPTER D. FACILITY CONSTRUCTION

40 TAC §19.326

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

STATUTORY AUTHORITY

The repeal is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Health and Safety Code, Chapter 242, which authorizes DADS to license and regulate nursing facilities.

The repeal affects Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §161.021, and Texas Health and Safety Code, Chapter 242.

§19.326. *Safety Operations.*

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100003

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 438-3734



40 TAC §19.326

STATUTORY AUTHORITY

The new section is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Health and Safety Code, Chapter 242, which authorizes DADS to license and regulate nursing facilities.

The new section affects Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §161.021, and Texas Health and Safety Code, Chapter 242.

§19.326. *Safety Operations.*

(a) A facility must have a program to inspect, test, and maintain the fire alarm system and must execute the program at least once every three months.

(1) The facility must contract with a company that is registered by the State Fire Marshal's Office to execute the program.

(2) The person who performs a service under the contract must be licensed by the State Fire Marshal's Office to perform the service and must complete, sign and date an inspection form similar to the inspection and testing form in National Fire Protection Association (NFPA) 72 for a service provided under the contract.

(3) The facility must ensure fire alarm system components that require visual inspection are visually inspected in accordance with NFPA 72.

(4) The facility must ensure fire alarm system components that require testing are tested in accordance with NFPA 72.

(5) The facility must ensure fire alarm system components that require maintenance are maintained in accordance with NFPA 72.

(6) The facility must ensure smoke dampers are inspected and tested in accordance with NFPA 101, 2000 Edition.

(7) The facility must maintain onsite documentation of compliance with this subsection.

(b) A facility must have a program to inspect, test and maintain the sprinkler system and must execute the program at least once every three months.

(1) The facility must contract with a company that is registered by the State Fire Marshal's Office to execute the program.

(2) The person who performs a service under the contract must be licensed by the State Fire Marshal's Office to perform the service and must complete, sign and date an inspection form similar to the inspection and testing form in NFPA 25 for a service provided under the contract.

(3) The facility must ensure sprinkler system components that require visual inspection are visually inspected in accordance with NFPA 13 and 25.

(4) The facility must ensure sprinkler system components that require testing are tested in accordance with the NFPA 13 and 25.

(5) The facility must ensure sprinkler system components that require maintenance are maintained in accordance with NFPA 13 and 25.

(6) The facility must ensure that individual sprinkler heads are inspected and maintained in accordance with NFPA 13 and 25.

(7) The facility must maintain onsite documentation of compliance with this subsection.

(c) If facility staff verify or suspect a malfunction of the fire alarm, emergency electrical, or sprinkler system, the facility must immediately investigate and correct the condition. In addition, the facility must immediately report the failure of the fire alarm, emergency electrical, or sprinkler system to all facility staff and the local fire authority.

(d) If emergency generators are required or provided, a facility must have a program to maintain, operate, and test all emergency generators, including all appurtenant components, and must execute the program at least once every week.

(1) The facility must use a properly instructed person to oversee and execute the program.

(2) The facility must ensure generator components are inspected, tested, and maintained in accordance with NFPA 37, 70, 99, and 110.

(3) The facility must ensure all generators are operated, under load, for at least 30 minutes each week.

(4) The person who executes the program must maintain a signed and dated record or log of inspections, tests and maintenance performed.

(5) For each required operation of the generator under the program, the record or log must include the information necessary to verify:

(A) the total time taken to transfer the load to emergency power;

(B) the total time the generator operated under load;

(C) the total time the facility's emergency system remained on generator power after restoration of normal utility power; and

(D) the total time the generator operated (without load) after the facility's return to normal utility power.

(6) The facility must ensure the condition and proper operation of all emergency lighting is inspected and tested at least once every week under the program.

(7) The facility must maintain onsite documentation of compliance with this subsection.

(e) Duplex receptacles powered through the emergency electrical system must be installed at resident bed locations where patient-care-related electrical appliances are in use, unless a facility can demonstrate that it can provide the diagnostic, therapeutic, or monitoring benefits of the patient-care-related electrical appliances through acceptable alternative means in the event of a power outage.

(f) A facility must conduct a functional test on every required battery emergency lighting system at 30-day intervals for a minimum of 1/2 hour. The facility must also conduct an annual test for a minimum of 1 1/2 hours. The lighting system must be fully operational for the duration of the testing. The facility must maintain an onsite written record of all tests performed and make those records available to the authority having jurisdiction during an inspection.

(g) A facility must ensure that a person licensed by the State Fire Marshal's office inspects and services automatic fixed fire extinguishment systems mounted in kitchen range hoods at least once every six months in accordance with NFPA 96. The facility must maintain, onsite, a written and signed report of the inspection and service performed. The facility must keep the hood, exhaust ducts, and filters clean and free of accumulated grease.

(h) A facility must inspect and maintain portable fire extinguishers.

(1) Facility staff must visually inspect portable fire extinguishers monthly. Facility staff conducting the monthly visual inspection must ensure portable extinguishers are protected from damage, kept on their mounting brackets or in cabinets at all times, and kept in the proper condition and working order.

(2) A facility must ensure that a person licensed by the State Fire Marshal's office inspects and maintains portable fire extinguishers at least once every 12 months in accordance with NFPA 10.

(3) The facility must maintain, onsite, a record of all fire extinguisher inspections and maintenance performed.

(i) A facility using gas must have the gas piping lines from the meter and appliances tested for leaks annually by a person licensed with the State Board of Plumbing Examiners. The facility must maintain, onsite, a written and signed report of these tests. The facility must note and correct any unsatisfactory conditions immediately.

(j) A facility must formulate, adopt, and enforce smoking policies.

(1) The facility's policies must comply with all applicable codes, regulations, and standards, including local ordinances.

(2) The facility is responsible for informing residents, staff, visitors, and other affected parties of smoking policies through the distribution and posting of policies.

(3) A facility must prohibit smoking in any room, ward, or compartment where flammable liquids, combustible gas, or oxygen are used or stored and in any other hazardous locations. These areas must be posted with "No Smoking" signs.

(4) A facility must provide ashtrays of noncombustible material and safe design in all areas where smoking is permitted.

(5) A facility must provide a metal container with a self-closing cover device into which ashtrays can be emptied in all areas where smoking is permitted.

(k) A facility must not allow storage of combustible products in facility rooms with gas-fired equipment.

(l) A facility must not allow storage of volatile or flammable liquids or materials anywhere within the facility building.

(m) A facility may install alcohol-based hand rub dispensers. If installed, they must be installed in accordance with NFPA 101 standards.

(n) A facility must not store or leave unattended medical equipment, carts, wheelchairs, tables, furniture, dispensing machines, or similar physical objects in corridors or other ways of egress that reduce the required minimum clear width for a corridor in accordance with NFPA 101, 2000 Edition.

(o) A facility must keep smoke doors, fire doors, and doors to hazardous rooms in the facility closed and not prop or wedge a door open. The facility may use only approved devices to hold open a door, such as alarm-activated electromagnetic hold-open devices, except a facility may not use any device to hold open a door to a room classified as a hazardous room.

(p) The facility must post building evacuation routes at prominent locations throughout the facility.

(q) A facility must provide approved electrical receptacles in quantity and location for the normal use of appliances in the facility.

(r) A facility must not use electrical extension cords or multi-receptacle plug-in adaptors as a substitute for approved wiring methods in the facility.

(s) A facility may use a listed and approved surge-protection device for equipment for which the manufacturer recommends surge protection, but in no case may the facility use a surge-protection device to increase the number of existing electrical outlets in a room.

(t) A facility must remove all abandoned utilities, such as electrical wiring, ducts, and pipes from the facility when no longer in use. The facility may, however, leave an existing damper that is no longer required by NFPA 101 in-place and inoperable, if the damper is in a duct penetration of a smoke barrier in a fully ducted heating, ventilating, and air conditioning system; the damper is permanently secured in

the open position; and quick-response sprinklers have been provided for the smoke compartments on both sides of the smoke barrier.

(u) A facility must have and implement as necessary a fire safety plan that:

(1) includes the provisions described in the Operating Features section of the NFPA 101 Life Safety Code, 2000 Edition, Chapter 18 (for new healthcare occupancies) and Chapter 19 (for existing healthcare occupancies) and concerning:

- (A) use of alarms;
- (B) transmission of alarm to fire department;
- (C) response to alarms;
- (D) isolation of fire;
- (E) evacuation of immediate area;
- (F) evacuation of smoke compartment;
- (G) preparation of floors and building for evacuation;

and

(H) extinguishment of fire;

(2) includes procedures for:

(A) conducting a fire drill on each work shift at least once per quarter with at least one fire drill conducted each month; and

(B) completing the form titled, "DADS Fire Drill Report" for each fire drill conducted.

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100004

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 438-3734



SUBCHAPTER T. ADMINISTRATION

40 TAC §19.1914

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

STATUTORY AUTHORITY

The repeal is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan

and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Health and Safety Code, Chapter 242, which authorizes DADS to license and regulate nursing facilities.

The repeal affects Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §161.021, and Texas Health and Safety Code, Chapter 242.

§19.1914. Disaster and Emergency Preparedness.

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100005

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 438-3734



40 TAC §19.1914

STATUTORY AUTHORITY

The new section is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Health and Safety Code, Chapter 242, which authorizes DADS to license and regulate nursing facilities.

The new section affects Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §161.021, and Texas Health and Safety Code, Chapter 242.

§19.1914. Emergency Preparedness and Response.

(a) Definitions. In this section:

(1) "emergency situation" means an impending or actual situation that:

(A) interferes with normal activities of a facility and its residents;

(B) may:

(i) cause injury or death to a resident or staff member of the facility; or

(ii) cause damage to facility property;

(C) requires the facility to respond immediately to mitigate or avoid the injury, death, damage or interference; and

(D) does not include a situation that arises from the medical condition of a resident, such as cardiac arrest, obstructed airway, or cerebrovascular accident;

(2) "plan" refers to a facility's emergency preparedness and response plan; and

(3) "receiving facility" means a facility or location that has agreed to receive the residents of another facility who are evacuated due to an emergency situation.

(b) Administration. A facility must:

(1) develop and implement a written plan as described in subsection (c) of this section;

(2) maintain a current printed copy of the plan in a central location that is accessible to all staff at all times and at a work station of each personnel supervisor who has responsibilities under the plan;

(3) evaluate the plan to determine if information in the plan needs to change:

(A) within 30 days after an emergency situation;

(B) due to remodeling or making an addition to the facility; and

(C) at least annually;

(4) revise the plan within 30 days after information in the plan changes; and

(5) maintain documentation of compliance with this section.

(c) Emergency Preparedness and Response Plan. A facility's plan must:

(1) include a risk assessment of all potential internal and external emergency situations relevant to the facility's operations and geographical area, such as a fire, failure of heating and cooling systems, a power outage, a bomb threat, an explosion, a hurricane, a tornado, a flood, extreme snow and ice conditions for the area, a wildfire, terrorism, a hazardous materials accident, or a thunderstorm with a risk for harm to persons or property;

(2) include a description of the facility's resident population;

(3) include a section for each core function of emergency management, as described in subsection (d) of this section, that is based on a facility's decision to either shelter-in-place or evacuate during an emergency situation;

(4) include a section for a fire safety plan that complies with §19.326 of this chapter (relating to Safety Operations); and

(5) include a section for self reporting incidents that complies with subsection (f) of this section.

(d) Plan Requirements Regarding Eight Core Functions of Emergency Management.

(1) Direction and control. The facility's plan must contain a section for direction and control that:

(A) designates by name or title the emergency preparedness coordinator (EPC), who is the facility staff person with the authority to manage the facility's response to an emergency situation in accordance with the plan, and includes the EPC's current phone number;

(B) designates by name or title the alternate EPC, who is the facility staff person with the authority to act as the EPC if the EPC is unable to serve in that capacity, and includes the alternate EPC's current phone number;

(C) documents the name and contact information for the local emergency management coordinator (EMC) for the area where the facility is located, as identified by the office of the local mayor or county judge;

(D) includes procedures for notifying the local EMC of the execution of the plan;

(E) includes a plan for coordinating a staffing response to an emergency situation; and

(F) includes a plan for guiding residents to a safe location that is based on the type of emergency situation occurring and a facility's decision to either shelter-in-place or evacuate during an emergency situation.

(2) Warning. A facility's plan must contain a section for warning that:

(A) describes how the EPC will be notified of an emergency situation;

(B) identifies who the EPC will notify of an emergency situation and when the notification will occur, including during off hours, weekends, and holidays; and

(C) addresses monitoring local news and weather reports regarding a disaster or potential disaster taking into consideration factors such as geographic specific natural disasters, whether a disaster is likely to be addressed or forecast in the reports, and the conditions, natural or otherwise, that would cause staff to monitor news and weather reports for a disaster.

(3) Communication. A facility's plan must contain a section for communication that:

(A) identifies the facility's primary mode of communication to be used during an emergency situation and the facility's alternate mode of communication to be used in the event of power failure or the loss of the facility's primary mode of communication in an emergency situation;

(B) requires posting of the emergency contact number for the local fire department, ambulance, and police on or near each telephone in the facility in communities where a "911" emergency management system is unavailable;

(C) includes procedures for maintaining a current list of telephone numbers for residents' responsible parties;

(D) includes procedures for maintaining a current list of telephone numbers for pre-arranged receiving facilities;

(E) includes procedures for maintaining a current list of telephone numbers for the facility's staff;

(F) identifies the location of the lists described in subparagraphs (C) through (E) of this paragraph and in subsection (d)(1)(A) and (B) of this section;

(G) includes procedures to notify:

(i) facility staff about an emergency situation;

(ii) a receiving facility about an impending or actual evacuation of residents; and

(iii) residents and residents' responsible parties about an impending or actual evacuation;

(H) provides a method for a person to obtain resident information during an emergency situation; and

(I) includes procedures for the facility to maintain communication with:

- (i) facility staff involved in an emergency situation;
- (ii) a receiving facility; and
- (iii) the driver of a vehicle transporting residents, medication, records, food, water, equipment, or supplies during an evacuation.

(4) Sheltering Arrangements. A facility's plan must contain a section for sheltering arrangements that:

(A) includes procedures for implementing a decision to shelter-in-place that includes:

- (i) having access to medications, records, food, water, equipment and supplies; and
- (ii) sheltering facility staff involved in responding to an emergency situation, and their family members, if necessary;

(B) includes procedures for notifying DADS Regulatory Services regional office for the area in which the facility is located by telephone immediately after the EPC makes a decision to shelter-in-place:

(i) before, during, or after a hurricane or flood impacts a facility, if the risk assessment identified a hurricane or flood as a potential emergency situation; or

(ii) after any other type of emergency situation that has caused property damage to a facility;

(C) includes procedures for accommodating evacuated residents, if the facility serves as a receiving facility for a facility that has evacuated.

(5) Evacuation. A facility's plan must contain a section for evacuation that:

(A) identifies evacuation destinations and routes, and includes a map that shows the destinations and routes;

(B) includes procedures for implementing a decision to evacuate residents to a receiving facility;

(C) includes a current copy of an agreement with a receiving facility, outlining arrangements for receiving residents in the event of an evacuation, if the evacuation destination identified in accordance with subparagraph (B) of this paragraph is a receiving facility that is not owned by the same entity as the evacuating facility;

(D) includes procedures for:

(i) ensuring facility staff accompany evacuating residents;

(ii) ensuring that residents and facility staff present in the building have been evacuated;

(iii) accounting for residents and facility staff after they have been evacuated;

(iv) accounting for residents absent from the facility at the time of the evacuation;

(v) releasing resident information in an emergency situation to promote continuity of a resident's care;

(vi) contacting the local EMC to find out if it is safe to return to the geographical area after an evacuation;

(vii) determining if it is safe to re-enter and occupy the building after an evacuation; and

(E) includes procedures for notifying the local EMC regarding an evacuation of the facility;

(F) includes procedures for notifying DADS Regulatory Services regional office for the area in which the facility is located by telephone immediately after the EPC makes a decision to evacuate; and

(G) includes procedures for notifying DADS Regulatory Services regional office for the area in which the facility is located by telephone immediately when residents have returned to the facility after an evacuation.

(6) Transportation. A facility's plan must contain a section for transportation that:

(A) arranges for a sufficient number of vehicles to safely evacuate all residents;

(B) identifies facility staff designated to drive a facility owned, leased or rented vehicle during an evacuation;

(C) includes procedures for safely transporting residents, facility staff involved in an evacuation; and

(D) includes procedures for safely transporting and having timely access to oxygen, medications, records, food, water, equipment, and supplies needed during an evacuation.

(7) Health and Medical Needs. A facility's plan must contain a section for health and medical needs that:

(A) identifies the types of services used by residents, such as dialysis, oxygen, respirator care, or hospice services; and

(B) ensures the resident's needs identified in subparagraph (A) of this paragraph are met during an emergency situation.

(8) Resource Management. A facility's plan must contain a section for resource management that:

(A) includes a plan for identifying medications, records, food, water, equipment and supplies needed during an emergency situation;

(B) identifies facility staff who are assigned to locate the items in subparagraph (A) of this paragraph and who must ensure the transportation of the items during an emergency situation; and

(C) includes procedures to ensure medications are secure and maintained at the proper temperature during an emergency situation.

(e) Training. The facility must:

(1) train a facility staff member on the staff member's responsibilities under the plan within 30 days after assuming job duties;

(2) train a facility staff member on the staff member's responsibilities under the plan at least annually and when the staff member's responsibilities under the plan change; and

(3) conduct one unannounced annual drill with facility staff for severe weather and other emergency situations identified by the facility as likely to occur, based on the results of the risk assessment required by subsection (c)(1) of this section.

(f) Self-Reported Incidents.

(1) A facility must report a fire to DADS as follows:

(A) by calling 1-800-458-9858 immediately after the fire; and

(B) by submitting a completed DADS form titled "Fire Report for Long Term Care Facilities" within 15 calendar days after the fire.

(2) A facility must report an emergency situation that caused the death or serious injury of a resident to DADS as follows:

(A) by calling 1-800-458-9858 immediately after the death or serious injury; and

(B) by submitting a completed DADS form titled "DADS Provider Investigation Report" within 5 working days after making the telephone report required by paragraph (2)(A) of this subsection.

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.

Filed with the Office of the Secretary of State on January 3, 2011.

TRD-201100006

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: February 13, 2011

For further information, please call: (512) 438-3734



WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER J. COSTS, RATES AND TARIFFS

DIVISION 1. RETAIL RATES

16 TAC §25.243

Proposed new §25.243, published in the June 25, 2010, issue of the *Texas Register* (35 TexReg 5430), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on December 28, 2010.

TRD-201007376



TITLE 22. EXAMINING BOARDS

PART 24. TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

CHAPTER 571. LICENSING

SUBCHAPTER A. EXAMINATION

22 TAC §571.19

The Texas Board of Veterinary Medical Examiners withdraws proposed new §571.19 which appeared in the October 15, 2010, issue of the *Texas Register* (35 TexReg 9212).

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007398

Loris Jones
Executive Assistant
Texas Board of Veterinary Medical Examiners
Effective date: December 29, 2010
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SUBCHAPTER C. LICENSE RENEWALS

22 TAC §571.62

The Texas Board of Veterinary Medical Examiners withdraws proposed new §571.62 which appeared in the October 15, 2010, issue of the *Texas Register* (35 TexReg 9212).

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007399
Loris Jones
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Effective date: December 29, 2010
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22 TAC §571.63

The Texas Board of Veterinary Medical Examiners withdraws proposed new §571.63 which appeared in the October 15, 2010, issue of the *Texas Register* (35 TexReg 9213).

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007400
Loris Jones
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Effective date: December 29, 2010
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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 164. PHYSICIAN ADVERTISING

22 TAC §164.4

The Texas Medical Board (Board) adopts amendments to §164.4, concerning Board Certification, with changes to the proposed text as published in the September 24, 2010, issue of the *Texas Register* (35 TexReg 8705). The text of the rule will be republished.

The Board sought stakeholder input through Stakeholder Groups, which made comments on the suggested changes to the rule at a meeting held on May 17, 2010. The comments were incorporated into the proposed rule. In addition, comments were received from the public and reviewed by the Ad Hoc Committee regarding §164.4 on April 7, 2010, June 3, 2010, and August 25, 2010.

The amendments to §164.4 clarify under what circumstances a physician may advertise himself or herself as "board-certified." Specifically, the amendments allow physicians to advertise that they are "board certified" only if: a) their certifying board is either the American Board of Oral and Maxillofacial Surgery, or is a member the American Board of Medical Specialties (ABMS) or the American Osteopathic Association Bureau of Osteopathic Specialties (BOS) or; b) if their certifying board can meet specific standards outlined in the rule. Physicians whose certifying boards are not specifically named in the rule may use the term "board certified" only if the Medical Board determines, based on an application by a physician or other entity, that these other Boards have certification requirements that are substantially similar to those of the ABMS or the BOS, including the completion of postgraduate training accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, which includes substantial and identifiable supervised training of comprehensive scope in the specialty or subspecialty certified. In addition, the amendments permit that physicians whose certifying boards were deemed "substantially similar" by the Medical Board prior to September 1, 2010, and who themselves were certified by these other certifying boards prior to September 1, 2010, may use the term "board certified."

The Board has determined that after careful review of the rule and based on comments received, that the rule change protects the public by preventing misleading advertising as it relates the board certification.

The Board received comments regarding §164.4 from the American Academy of Emergency Medicine (AAEM), American Board of Emergency Medicine (ABEM), American Board of Medical

Specialties (ABMS), American Board of Physician Specialties (ABPS), American College of Osteopathic Emergency Physicians (ACOEP), American College of Emergency Physicians (ACEP), Association of Emergency Physicians (AEP), Society for Academic Emergency Medicine (SAEM), Texas College of Emergency Physicians (TCEP) and numerous individuals.

Commenter 1: American Academy of Emergency Medicine (AAEM) - Against

1. The proposed rule changes are directed primarily at Emergency Medicine and board certification in this area, and no other specialty would be affected by the rule changes.
2. The proposed rule changes do nothing to protect the public's safety and welfare through the regulation of the practice of medicine. Rather, they benefit only those doctors who hold the Board Certification of Emergency Medicine (BCEM) certification and those who wish to employ them.
3. The proposed rules will lower educational standards and confuse the public.

4. 22 TAC §164.4(i) will establish a loophole that seems intended for the BCEM certification, and allow BECM physicians to advertise themselves as board certified even though they would not be required to have formal emergency medicine residency training.

Commenter 2: American Board of Emergency Medicine (ABEM) - In Favor Generally

1. Supports amendments except for §164.4(i). ABEM's examination process is rigorous, reliable, fair, and psychometrically valid. It is antithetical to quality standards established in contemporary mainstream medicine to allow physicians who are not trained in Emergency Medicine to hold themselves out as board certified.
2. ACGME accredited residency training in Emergency Medicine has been available since 1975 and has become the cornerstone criterion for certification in Emergency Medicine because it is qualitatively distinct from training in any other discipline. Allowing physicians to advertise that they are "board certified" when they have not trained in an accredited Emergency Medicine residency program negates the importance of supervised training in Emergency Medicine, and misleads patients regarding the training of their physicians and the meaning of board certified.

3. Workforce considerations should not drive certification decisions; rather, quality and the standards of training and evaluation should drive certification. Moreover, the inability to advertise oneself as board certified does not prohibit a hospital from allowing a physician to work in an emergency department.

Commenter 3: American Board of Medical Specialties - In Favor Generally

1. Public interest is best served when state regulations permit advertising of specialty certification by only those physicians who have met rigorous education, training, and testing requirements identified by the profession as fundamental to the practice of a medical specialty.

2. Because board certification is an essential tool for consumers to judge a doctor's knowledge and skills in a specific medical specialty, ABMS supports proposed provision requiring organizations that certify physicians as medical specialists to provide a mechanism that allows patients and families to verify the certification status of their physician providers.

3. Do not support proposed §164.4(i) since it would allow a small cohort of physicians to claim board certification even though their certification does not comply with those standards in subsections (a) and (b) and so is ultimately misleading and inconsistent with the stated purpose of the proposed rule.

Commenter 4: American Board of Physician Specialties - Against

1. The proposed rule change infringes on APBS physicians' constitutional right to speak to their qualifications and any restriction on that is subject to strict scrutiny in the courts, and the Board must demonstrate a compelling state interest which they have not. There is no evidence of harm to the public to support a compelling interest to change the rule.

2. The proposed rule change is based solely on opinion and is being made to protect the monopoly of certain organizations, such as the ABMS. There is no evidence that the current rule poses a danger to public safety or welfare to necessitate a change. Studies have shown that there is no difference between EM residency trained and non EM residency trained physicians.

3. The rule change is in conflict with the Board's prior statement on October 29, 2009 responding to an inquiry the ABPS sent earlier that year. Specifically, the TMB stated "the TMB has received information that clearly indicates that all the requirements of Board Rule have been met in order to be able to advertise that the physician is board certified by the APBS - If you receive questions from Texas members from your organization as to whether certifications from your organization meet the requirements of the TMB for advertising that they are board-certified by APBS, you may indicate in the affirmative as long as there is no change in the status of your organization regarding these specific agreements."

4. The rule change will disenfranchise over 190 physicians who have relied on the Board's past statements and will not allow a majority of the physicians working in Emergency Medicine to be advertising their board certification.

Commenter 5: American College of Emergency Physicians (ACEP) - In Favor Generally

1. Supports language proposed under §164.4(b)(5) that limits advertising of board certification to those certifying boards that require completion of postgraduate training that is accredited by the Accreditation Counsel for Graduate Medical Education or the American Osteopathic Association and that provides substantial and identifiable supervised training of comprehensive scope in the specialty or subspecialty supervised. This is a vital requirement and should be applied universally in order to ensure that physicians claiming to be board certified have met the highest possible standards and received the best training available to them.

2. Does not support proposed language for §164.4(i) which allows for a significant exception by bestowing board certification simply because they have been allowed claim board-certified status in the past. This exception is unnecessary and serves only to diminish the value of board certification and to confuse the public regarding the level of training that board-certified physicians receive.

3. ACEP supports the right of those physicians who currently practice emergency medicine to continue to do so, even if they can't hold themselves out as board certified. Many of them provide excellent care to patients and their valuable services will still be needed, regardless of whether they can claim to be board certified, since the supply of specialty-specific residency-trained emergency physicians cannot meet the emergency care needs of the population.

4. All specialties reach a point of maturity when there is widespread availability to residency training and when completing a specialty-specific residency program becomes the only acceptable pathway to achieve board-certification status. This occurred with ABMS and AOABOS 20 years ago. Proposed §164.4(i) undermines what ABMS and AOABOS decided, and arbitrarily bestows certification status on physicians who did not undergo residency training in the specialty by non-ABMS or AOABOS boards as recent as this year.

Commenter 6: The American College of Osteopathic Emergency Physicians (ACOEP) - In Favor Generally

1. The sensitive nature and vulnerability of patients, particularly in the emergency setting, should require transparency in the training credentials of the servicing physician.

2. The training metrics required in achieving board certification by the American Osteopathic Association Bureau of Osteopathic Specialists (AOABOS) and the American Board of Medical Specialties (ABMS) have rigorously progressed with advancing sciences in medical education and clinical practice to ensure specialty specific training. These certification advancements are driven in part through reflective processes exemplified by the Flexner Report and the Institute of Medicine, which outlined the need to improve patient safety through better training. As a result, a more dynamic instructional requirement emphasizing accountability in the education process has been implemented and incorporated into the Board Certification system. Hence, the specialty closed the practice track 20 years ago and no longer offers the nebulously defined "on the job training" as a legitimate means for certification of non-residency trained physicians.

3. State of New York Health Department in 2006 barred ABPS physicians from advertising board certification, and when challenged in federal court, the court granted summary judgment to New York State against APBS, and on October 1, 2010, the U.S. 2nd Court of Appeals upheld the residency training board certification process and found New York State's position had a rational basis in that "AAPS does not require completion of a residency program in the three specialties that comprise the vast majority of its certifications, while the organizations that the New York State Department of Health does recognize as providing valid board certification do impose such a requirement on all physicians now seeking certification."

4. Do not support changes to §164.4(i) that diminish the credentials of those who have met the rigorous criteria set forth by universally accepted national standards.

Commenter 7: Association of Emergency Physicians (AEP) - Against

1. Although the rule provides that the standards for alternate certifying boards should be equivalent to ABMS/BOS standards existing at the time of application, the ABMS changes its processes when new boards are added and standards are continually evolving.
2. ABMS has alternate pathways presently for certain boards, so alternatives should apply for all of the certifying boards.
3. There is no statistical significant difference in the performance of core measures between residency trained and non-residency trained emergency physicians.
4. The validity of any certification should be based on extensive onsite experience or specialty specific residency training and a validated exam for each board, which applies to all organizations.
5. The grandfather clause in proposed §164.4(i) is arbitrary, as is the American Board of Emergency Medicine (ABEM) changing in policy in 1988 when it closed its alternative pathway for certification which is the present pathway for ABPS.
6. 20% of ABEM certified emergency physicians are not residency trained. 40% of practicing emergency physicians are not emergency medicine trained.
7. The proposed changes were not in response to any safety concerns but instead were in response to a clarification of the previous rule.
8. The proposed rule change will worsen the emergency physician shortage that Texas is already experiencing especially in rural areas, as ABPS certified physicians would no longer be able to advertise themselves as board certified. Some ABPS certified physicians are at risk of losing their positions if the hospital maintains board certified physicians only.

Commenter 8: Society for Academic Emergency Medicine and Association of Academic Chairs of Emergency Medicine - In Favor Generally

Supports rule amendments except proposed §164.4(i) as it diminishes the public perception of board certification and the importance of a recognized level of training that board certified physicians receive. This conflicts with national healthcare focus on patient safety and quality outcomes driven by standards in physician training.

Commenter 9: Texas College of Emergency Physicians - In Favor Generally

Supports rule amendments except for §164.4(i) as it will confuse and mislead the public as to the expertise of those physicians who are not Emergency Medicine residency trained.

Additional Comments from Individuals in Support of the Rule Changes

1. The requirement of ACGME approved residency protects the patients and enforces a standard to which all ACGME approved residencies are held. Emergency medicine residents spend 3 - 4 years training to detect, diagnose, treat and manage acute life threatening disease processes. It is important that there is some sort of standard that Emergency Medicine residencies are held to, in order to ensure proper and thorough training.

2. Patients who go to the ER don't have the luxury of physician selection and should not be subject to substandard emergency care.

3. Whether to hire non-board certified physicians to staff ERs is a hospital and medical staff decision. The bar should not be lowered to allow non-EM residency trained doctors to call themselves "board certified" so that they can keep their jobs.

Additional Comments from Individuals in Opposition to the Rule Changes

1. Emergency medicine residency programs can not produce enough doctors to address the demand for emergency medicine physicians. Emergency medicine residency training in Texas has lagged far behind the rest of the country and it is difficult to get emergency medicine residency-trained physicians to work in those areas.

2. ABPS Emergency Medicine certification has strict requirements - completion of primary care residency plus five years of full time emergency department experience, written and oral exam, and recertification every 8 years. These strict requirements protect the public.

3. Amendment goes beyond affecting a physician's ability to advertise; insurance carriers may deny payment for services on the basis that the physician doesn't meet specialist criteria, or a physician may be removed from carrier networks on this basis.

4. Emergency medicine is a unique specialty that is a blended specialty drawing from skills and knowledge from a variety of other medical specialties, and was founded by physicians from diverse backgrounds. The fundamental issue unique to Emergency Medicine was that the demand for these services exploded, and the ABEM closed their practice track decades prematurely and with no consideration for workforce factors.

5. The provisions under proposed §164.4(i) relating to the September 1, 2010 cut off are arbitrary, as it is unclear why a physician certified by BCEM before this date is more qualified than a physician certified by BCEM after this date.

The rule change would adversely affect some career emergency physicians who are in the process of completing their BCEM certification. The rule change should be further amended to allow a physician who has submitted a certification application by December 31, 2011 and successfully completes the certification process to state that they are board certified in emergency medicine.

Texas Medical Board's Response to Comments

The Texas Medical Board initially proposed changes to its rules relating to board certification based on the determination that its rules were unclear relating to a licensee's ability to use the term "board certified" in advertising. Under the Board's current §164.4(a), only physicians who are members of the ABMS, BOS, or American Board of Oral and Maxillofacial Surgery, may advertise themselves as "board certified." Physicians who are not members of these boards, may advertise that they are a "member, fellow, diplomate, or certified by a named organization" provided that organization meets certain criteria under Board Rule §164.4(b). Although the rules make a distinction between "board certified" and certified by "X board," the Board determined that this distinction was not clear to the public and, therefore, led to unintentional misleading advertising by licensees. Under the amendments to Board Rule §164.4, there is no longer this distinction, and only the term "board certified" is used. Therefore, if

certifying organizations meet the criteria of proposed §164.4(b), physician members of those organizations will be able to hold themselves out as "board certified" which they previously were not permitted to do under the current rules.

Other significant changes to Board Rule §164.4 include that if physicians want to advertise that they are board certified by certifying boards other than those listed in §164.4(a), they must meet certain criteria. One factor is that the standards of those boards must be substantially similar to those of the ABMS or BOS and a second is that postgraduate training received to qualify for certification was accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association and included substantial and identifiable supervised training of comprehensive scope in the specialty or subspecialty certified. Of the comments received in opposition to the proposed amendments, no group argued that the standards should not be substantially similar to those of the ABMS or BOS, but rather that the content of the postgraduate training should not have to be in the same specialty as that of the specialty certification, specifically that Family Medicine ACGME training should be acceptable for Emergency Medicine certification. However, if one examines the current Board Rule §164.4(b)(5), specialty training in the same specialty as the specialty certification is already required. Currently, Board Rule §164.4(b)(5) reads as follows:

the organization requires *all physicians who are seeking certification to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of medicine in which the physician is seeking certification*, and the organization utilizes appropriate peer review. This identifiable training shall be deemed acceptable unless determined by the Texas Medical Board to be inadequate in scope, content, and duration in that specialty or subspecialty area of medicine in order to protect the public health and safety.

The proposed rule is substantially similar to the current rule. However, due in part to past misinterpretation of the rule, the rule has been modified to clarify the board's requirements.

Arguments have been raised that the proposed amendment is a violation of free speech, and without a compelling interest, the Texas Medical Board's adoption of the amendments is unconstitutional. Although not binding on the 5th Circuit, the 9th Circuit found that the use of the term "board certified" was "commercial speech;" and in order to be constitutionally permissible, therefore, any regulation of its use must pass "intermediate scrutiny" by meeting the four requirements outlined by the Supreme Court in *Central Hudson Gas and Electric Corp. v. Public Service Commission*, 447 US 557 (1980):

1. *The speech must be unlawful or misleading.* When "advertising is *inherently likely to deceive* or where the record indicates that a particular form or method of advertising has in fact been deceptive," the advertising enjoys no First Amendment protection. *Id.* The government may ban this type of commercial speech entirely without satisfying the remaining three *Central Hudson* factors. *Id.* However, if the speech is only "*potentially misleading*," in other words, "if the information also may be presented in a way that is not deceptive," the speech regulation must satisfy the remaining three factors specified in *Central Hudson*. *Id.* at 203, 102 S. Ct. 929";

2. *The state must have a substantial interest in restricting the speech;*

3. *The state must demonstrate that the regulation "directly advances" the asserted government interest; AND*

4. *The state must demonstrate that the restriction on speech is not more extensive than necessary to serve the asserted government interest.*

Numerous comments were received that confirm the Board's opinion that advertising board certification by a board that is not substantially equivalent to ABMS or BOS is inherently misleading and, therefore, the Board has determined the rule amendments are not unconstitutional and would withstand a constitutional challenge if a lawsuit were filed.

Finally, several groups and individuals argued against the rule amendments based on the determination that the amendments will adversely affect employment arrangements. The Board has promulgated these rules for the purpose of *advertising only and has so stated in its adoption of the rule as proposed*. While the Board acknowledges that certain entities may apply these rules for credentialing purposes, the Board does not have the authority to control how these rules are applied by non-licensees. The Board does not intend these rules to adversely affect employment arrangements. The Board understands the needs of medically underserved populations that require emergency services, and hopes that these rules are not applied by non-licensees to adversely affect those needs. The intent of the rules is to protect the public from misleading advertising, by ensuring that those who advertise board certification have completed the requisite education, training, and testing, and the Board has determined that the rule amendments accomplish its stated intent.

The amendment is adopted under the authority of the Texas Occupations Code Annotated, §153.001 and §154.006, which provide authority for the Board to adopt rules and bylaws as necessary to govern its own proceedings, perform its duties, regulate the practice of medicine in this state, enforce this subtitle, and establish rules related to licensure.

§164.4. Board Certification.

(a) A physician is authorized to use the term "board certified" in any advertising for his or her practice only if the specialty board that conferred the certification and the certifying organization is a member board of the American Board of Medical Specialties (ABMS), or the American Osteopathic Association Bureau of Osteopathic Specialists (BOS), or is the American Board of Oral and Maxillofacial Surgery.

(b) Physicians who are certified by a board that does not meet the criteria of subsection (a) of this section, shall be authorized to use the term "board certified" only if the medical board determines that the physician-based certifying organization that conferred the certification has certification requirements that are substantially equivalent to the requirements of the ABMS or the BOS existing at the time of application to the medical board. Physicians, or physician-based certifying organizations on behalf of their members, must submit an application to a committee of the medical board, and demonstrate that:

(1) the organization requires all physicians who are seeking certification to successfully pass a written or an oral examination or both, which tests the applicant's knowledge and skills in the specialty or subspecialty area of medicine. All or part of the examination may be delegated to a testing organization. All examinations require a psychometric evaluation for validation;

(2) the organization has written proof of a determination by the Internal Revenue Service that the certifying board is tax exempt under the Internal Revenue Code pursuant to Section 501(c);

(3) the organization has a permanent headquarters and staff;

(4) the organization has at least 100 duly licensed members, fellows, diplomates, or certificate holders from at least one-third of the states;

(5) the organization requires all physicians who are seeking certification to have successfully completed postgraduate training that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association and that provides substantial and identifiable supervised training of comprehensive scope in the specialty or subspecialty certified, and the organization utilizes appropriate peer review;

(6) the organization provides an online resource for the consumer to verify the board certification of its members; and

(7) the organization has the ability to provide a full explanation of its certification process and membership upon request by the Texas Medical Board.

(c) A physician may not authorize the use of or use the term "board certified" if the claimed board certification has expired and has not been renewed at the time the advertising in question was ordered.

(d) The terms "board eligible," "board qualified," or any similar words or phrase calculated to convey the same meaning may not be used in physician advertising.

(e) A physician's authorization of or use of the term "board certified", or any similar words or phrase calculated to convey the same meaning in any advertising for his or her practice shall constitute misleading or deceptive advertising unless the specialty board which conferred the certification and the certifying organization meet the requirements in subsection (a) or (b) of this section.

(f) A physician may advertise a field of interest if the physician is certified by, or a member, fellow, or diplomate of an organization that meets the requirements of subsection (a) or (b) of this section.

(g) A board certified physician who advertises board certification may advertise a field of interest that is different from the certified specialty only if the physician identifies the specialty for which the physician is board certified in an equal size of type or emphasis.

(h) A physician who is not board certified by, or a member, fellow, or diplomate of an organization that meets either the requirements of subsection (a) or (b) of this section may not advertise a field of interest, except that the physician may advertise that his or her practice is "limited to" a certain practice area.

(i) A physician who holds a certification that was granted prior to September 1, 2010, and whose certifying board was approved by the medical board for advertising purposes prior to September 1, 2010, is considered to meet the requirements of subsection (b) of this section.

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.

Filed with the Office of the Secretary of State on December 28, 2010.

TRD-201007394

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: January 17, 2011

Proposal publication date: September 24, 2010

For further information, please call: (512) 305-7016

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**PART 18. TEXAS STATE BOARD OF
PODIATRIC MEDICAL EXAMINERS**

**CHAPTER 376. VIOLATIONS AND
PENALTIES**

22 TAC §376.25, §376.27

The Texas State Board of Podiatric Medical Examiners adopts the amendments to §376.25 and §376.27 regarding Violations and Penalties without changes to the proposed text that was published in the October 8, 2010, issue of the *Texas Register* (35 TexReg 9032). The text will not be republished.

The amendments to §376.25 and §376.27 are being adopted to update the complaint form and revise rules on the complaint investigation process to include establishing a "Peer Review" avenue with the Texas Podiatric Medical Association as an alternate remedy to addressing complaints.

No comments were received in response to the proposed rule amendments.

The amendments are being adopted under Texas Occupations Code, §202.151, which provides the Texas State Board of Podiatric Medical Examiners with the authority to adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the laws of this state, and the law of the United States to govern its proceedings and activities, the regulation of the practice of podiatry and the enforcements of the law regulating the practice of podiatry.

The adopted amendments for §376.25 and §376.27 implement Texas Occupations Code Chapter 202, Subchapter J.

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.

Filed with the Office of the Secretary of State on December 30, 2010.

TRD-201007424

Janie Alonzo

Staff Services Officer V

Texas State Board of Podiatric Medical Examiners

Effective date: January 19, 2011

Proposal publication date: October 8, 2010

For further information, please call: (512) 305-7000

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**PART 24. TEXAS BOARD OF
VETERINARY MEDICAL EXAMINERS**

CHAPTER 573. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER G. OTHER PROVISIONS

22 TAC §573.77

The Texas Board of Veterinary Medical Examiners adopts new §573.77, concerning Default on Student Loan/Child Support Payment, without changes to the proposed text as published in the October 15, 2010, issue of the *Texas Register* (35 TexReg 9214) and will not be republished.

The new rule sets forth that the Board may take disciplinary action against a licensee who is in default on student loans as outlined in Chapter 57 of the Education Code and/or a licensee who has failed to pay child support under Chapter 232 of the Texas Family Code.

No comments were received regarding the adoption of the new rule.

The new rule is adopted under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a) which states that the Board may adopt rules necessary to administer the chapter, as well as §801.151(b) which states "the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medical profession."

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.

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007401

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Effective date: January 18, 2011

Proposal publication date: October 15, 2010

For further information, please call: (512) 305-7563



CHAPTER 575. PRACTICE AND PROCEDURE

22 TAC §575.28

The Texas Board of Veterinary Medical Examiners adopts an amendment to §575.28, concerning Complaints--Investigations, with non-substantive changes to the proposed text as published in the October 29, 2010, issue of the *Texas Register* (35 TexReg 9619). The text of the rule will be republished.

The amendment to the rule sets out the process of providing a copy to the complainant of the licensee's response to a complaint filed against them and in return providing a copy of the complainant's subsequent response if any is provided, and allows Board staff to provide the responses, rather than just an investigator. The amendment further sets out that an investigator shall attempt to interview the complainant and if is unable to do so will make a notation in the investigative file of the attempts made. The amendment further sets out that the complainant will be invited to an informal conference regarding the complaint at the board offices.

Approximately two hundred commenters agreed with the proposed change, as it increased transparency of the investigation process and allows the possibility of additional information to be provided to the Board during an investigation of a complaint.

The amendment is adopted under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a) which states that the Board may adopt rules necessary to administer the chapter.

§575.28. *Complaints--Investigations.*

Investigation of complaints.

(1) Policy. The policy of the board is that the investigation of complaints shall be the primary concern of the board's enforcement program, and shall take precedence over all other elements of the enforcement program, including compliance inspections.

(2) Priority. The board shall investigate complaints based on the following allegations, in order of priority:

(A) acts or omissions, including those related to substance abuse, that may constitute a continuing and imminent threat to the public welfare;

(B) acts or omissions of a licensee that resulted in the death of an animal;

(C) acts or omissions of a licensee that contributed to or did not correct the illness, injury or suffering of an animal; and

(D) all other acts and omissions that do not fall within subparagraphs (A) - (C) of this paragraph.

(3) Upon receipt of a complaint, a letter of acknowledgment will be promptly mailed to the complainant.

(4) Complaints will be reviewed every thirty (30) days to determine the status of the complaint. Parties to a complaint will be informed on the status of a complaint at approximately 45 day intervals.

(5) Upon receipt of a complaint, the director of enforcement, or their designee, will review it and may interview the complainant to obtain additional information. If the director of enforcement concludes that the complaint resulted from a misunderstanding, is outside the jurisdiction of the board, or is without merit, the director of enforcement shall recommend through the general counsel to the executive director that an investigation not be initiated. If the executive director concurs with the recommendation, the complainant will be so notified. If the executive director does not concur with the recommendations, an investigation will be initiated.

(6) The director of enforcement will assign an investigator to the complaint. A copy of the complaint will be sent to the licensee, along with a request that the licensee respond to the complaint in writing within 21 days of receipt of the request. The licensee will also be asked to provide a copy of the relevant patient records with the response.

(7) After the licensee's response to the complaint is received, the board staff shall send a copy of the licensee's response to the complainant, along with notification that the complainant may submit additional comments and other evidence, if any, at any time during the investigation to the board. The board staff shall provide any response provided by the complainant to the licensee and provide a single opportunity to respond to the Board within ten days of receipt. No further responses from either the licensee or the complainant will be provided to either party.

(8) Further investigation may be necessary to corroborate the information provided by the complainant and the licensee. During the investigation, the investigator shall attempt to interview by tele-

phone contact the complainant, and if unable to contact the complainant shall document such in the file. Other persons, such as second opinion or consulting veterinarians, may be contacted. The investigator may request additional medical opinions, supporting documents, and interviews with other witnesses.

(9) Upon the completion of an investigation, the investigator shall prepare a report of investigation (ROI) for review by the director of enforcement, who in turn shall present the ROI to the executive director along with a conclusion as to the probability that a violation(s) exists.

(A) If the executive director determines from the ROI that the probability of a violation involving medical judgment or practice exists, the director of enforcement shall forward a copy of the ROI and complaint file to the board secretary and another board member (the "veterinarian members") who will determine whether or not the complaint should be closed, further investigation is warranted, or if the licensee and complainant should be invited to respond to the complaint at an informal conference at the board offices.

(B) If the probable violation does not involve medical judgment or practice (example: administrative matters such as continuing education and federal and state controlled substances certificates), the executive director shall forward the complaint file to a committee of the executive director, director of enforcement, the investigator assigned to the complaint, and general counsel (the "staff committee"), which shall determine whether or not the complaint should be dismissed, investigated further, or settled.

(C) If the veterinarian members determine that a violation has not occurred, the executive director or the executive director's designee, shall notify the complainant and licensee in writing of the conclusion and that the complaint is dismissed.

(D) If the veterinarian members conclude that a probable violation(s) exists, the executive director or the executive director's designee, shall invite the licensee and complainant, in writing, to an informal conference to discuss the complaint made against the licensee. If the veterinarian members cannot agree to dismiss or refer the complaint to an informal conference, the complaint will be automatically referred to an informal conference. The letter invitation to the licensee must include a list of the specific allegations of the complaint.

(E) A complaint considered by the staff committee shall be referred to an informal conference if:

(i) the staff committee determines that the complaint should not be dismissed or settled;

(ii) the staff committee is unable to reach an agreed settlement; or

(iii) the licensee who is the subject of the complaint requests that the complaint be referred to an informal conference.

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.

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007402

Loris Jones
Executive Assistant
Texas Board of Veterinary Medical Examiners
Effective date: January 18, 2011
Proposal publication date: October 29, 2010
For further information, please call: (512) 305-7563

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CHAPTER 577. GENERAL ADMINISTRATIVE DUTIES

SUBCHAPTER B. STAFF

22 TAC §577.20

The Texas Board of Veterinary Medical Examiners adopts new §577.20, concerning Employee Education and Training, without changes to the proposed text as published in the October 15, 2010, issue of the *Texas Register* (35 TexReg 9214) and will not be republished.

The new rule will establish a new rule relating to administration of the board-sponsored education and training programs for employees of the Texas Board of Veterinary Medical Examiners in accordance with the State Employees Training Act, Texas Government Code §§656.041 - 656.104.

No comments were received regarding the adoption of the new rule.

The new rule is adopted under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a) which states that the Board may adopt rules necessary to administer the chapter.

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.

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007403
Loris Jones
Executive Assistant
Texas Board of Veterinary Medical Examiners
Effective date: January 18, 2011
Proposal publication date: October 15, 2010
For further information, please call: (512) 305-7563

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 15. COASTAL AREA PLANNING
SUBCHAPTER A. MANAGEMENT OF THE BEACH/DUNE SYSTEM

31 TAC §15.33

The General Land Office (GLO) adopts amendments to §15.33 relating to Certification Status of Nueces County Dune Protection and Beach Access Plan without changes to the proposed text as published in the November 12, 2010, issue of the *Texas Register*

(35 TexReg 10031). The adopted amendment to §15.33 adds a new subsection (k) to certify as consistent with state law the amendments to the Nueces County Beach Management Plan (Plan) that were adopted by the Nueces County Commissioners Court by order on July 14th, 2010.

The 1996 Plan may be viewed on the County's website at: <http://www.co.nueces.tx.us/pw/dunes/beachmanagement.asp>. Copies of the local government dune protection and beach access plan and any amendments to the Plan are available from Nueces County Department of Public Works, 901 Leopard St., Suite 103, Corpus Christi, Texas 78401-3697, phone number (361) 888-0490, and from the GLO's Archives Division, Texas General Land Office, P.O. Box 12873, Austin, TX 78711-2873, phone number (512) 463-5277.

BACKGROUND

Pursuant to the Open Beaches Act (Texas Natural Resources Code, Chapter 61), the Dune Protection Act (Texas Natural Resources Code, Chapter 63), and the Beach/Dune Rules (31 TAC §§15.1 - 15.21), a local government with jurisdiction over gulf beaches must submit its beach management plan and amendments to the plan to the GLO for certification, including requirements for the issuance of dune protection permits, termination of permits, authorized emergency response activities, and the requirement of compliance monitoring and certification of completion for dune restoration and mitigation. Nueces County Commissioners Court amended the County's Plan by order adopted on July 14th, 2010. The GLO is required to review such plan amendments and certify by rule that those amendments are consistent with the Open Beaches Act, the Dune Protection Act, and the Beach/Dune Rules. The certification by rule reflects the state's approval of the plan, but the text of the plan is not adopted by the GLO. 31 TAC §15.3(o)(4).

Nueces County is a coastal county consisting of areas bordering Redfish Bay, Corpus Christi Bay, and the Laguna Madre. The County also borders the Gulf of Mexico to the southeast, extending from the southernmost boundary of Aransas County south to the northernmost boundary of Kleberg County. The County includes barrier islands consisting of a portion of North Padre Island accessible from the east via the John F. Kennedy Causeway (Park Road 22) and Mustang Island, which is accessible from the east via ferry at Port Aransas.

The Gulf beaches and adjacent areas governed by the Plan are those unincorporated areas within the County and the Gulf beaches within the corporate limits of the City of Corpus Christi with respect to administration of the Dune Protection Act. The County has delegated authority to the City of Port Aransas for administration of the Dune Protection Act pursuant to Texas Natural Resources Code §63.011(a), but has not delegated such authority to the City of Corpus Christi. With respect to administration of the Open Beaches Act, the Gulf beaches within the corporate limits of the City of Corpus Christi are governed by the City of Corpus Christi Dune Protection and Beach Access Plan (City's Plan), previously certified as consistent with state law in 31 TAC §15.31. The Gulf beaches within the corporate limits of the City of Port Aransas are governed by the City of Port Aransas Dune Protection and Beach Access Plan, previously certified as consistent with state law in 31 TAC §15.24.

THE 2010 NUECES COUNTY PLAN AMENDMENTS

On July 14, 2010 the Commissioners Court of Nueces County adopted amendments to the 1996 Plan and submitted those amendments to the GLO with a request for certification. The

2010 plan amendments include, among other minor administrative changes, provisions for emergency response activities conducted under local government authority, changes to the definitions for small-scale and large-scale construction and dune restoration, requiring the submission of additional information needed to review dune permit applications, provisions for compliance monitoring and certification of authorized construction under a dune protection permit, additional provisions for termination of permits, and elimination of the prohibition of parking seaward of the concrete seawall on North Padre Island.

The County Commissioners Court approved changes to Section II (F)(5) of the Plan granting the local governmental authority to carry out emergency response activities within the dune protection area when failure to do so will cause unreasonable hazard to the public or public facilities and infrastructure. The provision states that reasonable efforts shall be made to avoid and minimize impacts to the dunes and dune vegetation, and reasonable mitigation efforts may be required. The local governmental authority declaring the emergency must notify the Nueces County Department of Public Works and the General Land Office within twenty-four (24) hours after the event requiring emergency activities. The authorization of emergency response does not impair the rights of the public to access and use the public beach easement or limit dune protection, but rather provides a public benefit to allow local authorities to make repairs without delay that may pose an immediate public health and safety risk or may cause substantial damage to dunes and dune vegetation. The GLO finds that the approved change to Section II (F)(5) of the Plan is consistent with state law.

The County Commissioners Court approved changes to Section II (H)(6)(a) of the Plan reflecting changes to 31 TAC §15.3 and state law relating to the definition of small-scale and large-scale construction. These changes include an amendment to allow the GLO thirty (30) working days to comment on large-scale construction applications. The GLO finds that the approved change to Section II (H)(6)(a) of the Plan is consistent with state law.

The County Commissioners Court approved changes to Section II (I)(14) of the Plan to require all new subdivision developments, except for ones authorized under an unexpired master-planned development, to include the following statement on the recorded plat: "A dune protection permit is required for any construction activity on each lot seaward of the Dune Protection Line (1000 feet from the mean high tide line)." The new requirement to include the statement on subdivision plats is not required by the Dune Protection Act or Beach/Dune Rules. However, the local government plans may include provisions that exceed the requirements of the Dune Protection Act or Beach/Dune Rules. Therefore, the GLO finds that the approved change to Section II (I)(14) of the Plan is consistent with state law.

The County Commissioners Court approved changes to Section III (D)(1-4) for Compliance Monitoring and Certification relating to Dune Protection Permit Actions by the Commissioners Court. The amendments include requirements that all conditions of the dune protection permit approved by the Commissioners Court shall be met, including additional provisions added by the Commissioners Court. In addition, permittees must notify the County of scheduled construction, and the permitted property may be accessed and inspected by the County during construction and until the expiration of the dune protection permit or issuance of an acceptance letter as authorized in Section III (D)(4). During construction, the County will notify the permittee in writing if any concerns arise and provide a corrective action plan to rem-

edy the noncompliant actions. The changes also include provisions for the Commissioners Court or designated representative to assess a reasonable fee for inspection and monitoring of any permitting construction activities. The Commissioners Court may also require a permittee to conduct or pay for a monitoring program to study the success of authorized dune mitigation or compensation efforts. Texas Natural Resources Code §63.053 allows the commissioners court that has adopted a dune protection line to charge reasonable fees that do not exceed the cost for the provision of services necessary to implement its dune protection plan. Additionally, the Commissioners Court approved provisions to require the permittee to submit an affidavit, signed and sealed by a registered professional engineer, architect, or geologist to the County Engineer within thirty (30) days of completion of large-scale projects and construction of habitable structures demonstrating that the provisions of the dune protection permit including dune mitigation and/or compensation are met and that the permitted work is completed. The County will verify that the provisions are met and the County Engineer will send a letter of acceptance or rejection of the mitigation or compensation efforts and provide a copy to the GLO and the local municipality that issues beachfront construction certificates. The new requirements for compliance monitoring and certification impose a stricter standard than required by the Open Beaches Act (OBA), Texas Natural Resources Code §§61.001 - 61.026; the Dune Protection Act (DPA), Texas Natural Resources Code §§63.001 - 63.181; and the Beach/Dune Rules, 31 TAC §§15.1 - 15.21. Local governments are permitted to adopt standards that meet or exceed the requirements of state law. Therefore, the GLO finds that the provisions of new subsection "D" are consistent with state law.

Accordingly, the GLO adopts the 2010 Plan amendments approved by the Nueces County Commissioners Court on July 14, 2010, as consistent with state law, in accordance with the Beach/Dune Rules at 31 TAC §15.3(o)(4); §61.015(b) of the Open Beaches Act; and §63.054(c) of the Dune Protection Act.

SUMMARY AND RESPONSE TO COMMENTS

No comments were received from the public during the comment period.

STATUTORY AUTHORITY

The amendments are adopted under the Texas Natural Resources Code §§61.011, 61.015(b), 61.022(c), and 61.070, which provide the GLO with the authority to adopt rules to preserve and enhance the public's right to use and have access to and from the public beaches of Texas and to certify that plans to impose or increase public beach access, parking, or use fees are consistent with state law. In addition, Texas Natural Resources Code §63.121 provides the GLO with authority to adopt rules for the protection of critical dune areas.

Texas Natural Resources Code §§61.011, 61.015, 61.022, and 63.121 are affected by the adopted amendments.

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.

Filed with the Office of the Secretary of State on December 29, 2010.

TRD-201007416

Trace Finley

Deputy Commissioner, Policy and Governmental Affairs
General Land Office

Effective date: January 18, 2011

Proposal publication date: November 12, 2010

For further information, please call: (512) 475-1859



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 23. ADMINISTRATIVE PROCEDURES

34 TAC §23.5

The Board of Trustees (board) of the Teacher Retirement System of Texas (TRS or system) adopts amendments to 34 TAC §23.5, which concerns the nominating elections for appointment to the TRS board of trustees and the terms of board members. The amendments are adopted without changes to the proposed text as published in the October 29, 2010, issue of the *Texas Register* (35 TexReg 9642).

The adopted amendments result from TRS' four-year rule review of Chapter 23 in Title 34, Part 3, of the Texas Administrative Code. Chapter 23 contains rules concerning TRS administrative procedures that are not directly related to benefit administration. The adopted amendments to §23.5(f) update the current terms of board member positions.

No comments on the proposal were received.

Statutory Authority: The amendments are adopted under §825.102 of the Government Code, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

Cross-Reference to Statute: Section 825.004(a) of the Government 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.

Filed with the Office of the Secretary of State on December 28, 2010.

TRD-201007382

Ronnie G. Jung

Executive Director

Teacher Retirement System of Texas

Effective date: January 17, 2011

Proposal publication date: October 29, 2010

For further information, please call: (512) 542-6438



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Adopted Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 161, Commissioner's Rules Concerning Advisory Committees, pursuant to the Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 161 in the October 8, 2010, issue of the *Texas Register* (35 TexReg 9119).

Relating to the review of 19 TAC Chapter 161, the TEA finds that the reasons for adopting Chapter 161 continue to exist and readopts the rules. The TEA received no comments related to the review of Chapter 161. At a later date, the TEA may propose a change to update the list of public education advisory committees.

This concludes the review of 19 TAC Chapter 161.

TRD-201100024

Cristina De La Fuente-Valadez
Director, Policy Coordination
Texas Education Agency
Filed: January 5, 2011



Texas Department of Insurance

Title 28, Part 1

The Texas Department of Insurance has completed its review required by the Texas Government Code §2001.039 and readopts without revision all sections in the following chapters of the Texas Administrative Code, Title 28, Part 1: Chapter 5, Property and Casualty Insurance; Chapter 7, Corporate and Financial Regulation; Chapter 11, Health Maintenance Organizations; Chapter 15, Surplus Lines Insur-

ance; Chapter 19, Agents' Licensing; Chapter 21, Trade Practices; Chapter 23, Prepaid Legal Service; and Chapter 26, Small Employer Health Insurance Regulations. The reviewed sections in these chapters are subsequently referred to collectively in this Notice of Adopted Review as "the sections."

The notice of proposed rule review was published in the November 19, 2010, issue of the *Texas Register* (35 TexReg 10287). As provided in this notice, the Department reviewed and considered the sections for readoption, revision, or repeal.

The Department considered whether the reasons for adoption of the sections continue to exist. The Department also considered whether the sections were obsolete or were consistent with current procedures and practices of the Department.

The Department received no written comments regarding the review of the sections.

The Department has determined at this time that the reasons for adopting the sections continue to exist, and the sections are readopted in their present form. However, some of the sections may be subsequently proposed for revision in accordance with the Texas Administrative Procedure Act, Chapter 2001 of the Texas Government Code, and the Department's internal procedures.

This concludes the Department's review of the Texas Administrative Code, Title 28, Part 1, Chapters 5, 7, 11, 15, 19, 21, 23, and 26.

TRD-201100015

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: January 4, 2011



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ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Comptroller of Public Accounts

Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) announces this notice of grants awarded in connection with the Request for Applications (RFA) #E-JG3-2010 for equipment grant contracts awarded under the Jobs and Education for Texans (JET) program.

Comptroller announces that grant contracts were awarded to the following:

Alvin Community College, 3110 Mustang Road, Alvin, TX 77511. The total amount of the grant is not to exceed \$150,677.00. The term of this contract is August 11, 2010 through August 10, 2011;

Amarillo College, P.O. Box 447, Amarillo, TX 79178. The total amount of the grant is not to exceed \$100,000.00. The term of this contract is July 14, 2010 through July 13, 2011;

Angelina College, P.O. Box 1768, Lufkin, TX 75902. The total amount of the grant is not to exceed \$171,724.00. The term of this contract is July 13, 2010 through July 12, 2011;

Austin Community College, 5930 Middle Fiskville Road, Austin, TX 78752. The total amount of the grant is not to exceed \$98,860.00. The term of this contract is July 13, 2010 through July 12, 2011;

Cisco College, 101 College Heights, Cisco, TX 76437. The total amount of the grant is not to exceed \$135,300.00. The term of this contract is July 13, 2010 through July 12, 2011;

Clarendon College, P.O. Box 968, Clarendon, TX 79226. The total amount of the grant is not to exceed \$300,000.00. The term of this contract is July 14, 2010 through July 13, 2011;

College of the Mainland, 1200 Amburn, Texas City, TX 77591. The total amount of the grant is not to exceed \$91,970.00. The term of this contract is July 14, 2010 through July 13, 2011;

Del Mar College, 101 Baldwin Blvd., Corpus Christi, TX 78404. The total amount of the grant is not to exceed \$203,500.00. The term of this contract is July 14, 2010 through July 13, 2011;

Eastfield College, 3737 Motley Drive, Mesquite, TX 75150. The total amount of the grant is not to exceed \$147,098.00. The term of this contract is July 14, 2010 through July 13, 2011;

Galveston College, 4015 Ave. Q, Galveston, TX 77550. The total amount of the grant is not to exceed \$118,396.00. The term of this contract is July 19, 2010 through July 18, 2011;

Hill College, 112 Lamar Dr., Hillsboro, TX 76645. The total amount of the grant is not to exceed \$185,340.00. The term of this contract is July 13, 2010 through July 12, 2011;

Lamar State College - Orange, 410 Front Street, Orange, TX 77630. The total amount of the grant is not to exceed 137,603.46. The term of this contract is July 14, 2010 through July 13, 2011;

Laredo Community College, West End Washington, Laredo, TX 78040. The total amount of the grant is not to exceed \$91,739.21. The term of this contract is July 14, 2010 through July 13, 2011;

McLennan Community College, 1400 College Dr., Waco TX 76708. The total amount of the grant is not to exceed \$147,762.00. The term of this contract is July 13, 2010 through July 12, 2011;

Northeast Texas Community College, P.O. Box 1307, Mt. Pleasant, TX 75456. The total amount of the grant is not to exceed \$239,240.00. The term of this contract is July 12, 2010 through July 11, 2011;

Odessa College, 201 W. University Blvd., Odessa, TX 79764. The total amount of the grant is not to exceed \$195,926.00. The term of this contract is July 13, 2010 through July 12, 2011;

South Plains College, 1401 S. College Avenue, Levelland, TX 79336. The total amount of the grant is not to exceed \$74,960.00. The term of this contract is July 12, 2010 through July 11, 2011;

South Texas College, 3201 W. Pecan Blvd., McAllen, TX 78596. The total amount of the grant is not to exceed \$350,000.00. The term of this contract is July 13, 2010 through July 12, 2011;

Trinity Valley Community College, 100 Cardinal Street, Athens, TX 75751. The total amount of the grant is not to exceed \$101,400.00. The term of this contract is July 13, 2010 through July 12, 2011;

Tyler Junior College, P.O. Box 9020, Tyler, TX 75711. The total amount of the grant is not to exceed \$117,209.00. The term of this contract is July 14, 2010 through July 13, 2011;

Weatherford College, 225 College Park Drive, Weatherford, TX 76086. The total amount of the grant is not to exceed \$332,260.00. The term of the contract is July 14, 2010 through July 13, 2011; and

Wharton County Junior College, 911 Boling Hwy., Wharton, TX 77488. The total amount of the grant is not to exceed \$350,000.00. The term of this contract is July 14, 2010 through July 13, 2011.

The notice of request for applications (RFA #E-JG3-2010) was published in the April 9, 2010, issue of the *Texas Register* (35 TexReg 2883).

TRD-201100020

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: January 5, 2011



Notice of Request for Proposals

Pursuant to Chapter 403, §403.301 and §403.3011, and Chapter 2156, §2156.121, Texas Government Code; and Chapter 54, Subchapter F, Education Code, the Comptroller of Public Accounts (Comptroller), on behalf of the Texas Prepaid Higher Education Tuition Board (Board), announces the issuance of a Request for Proposals (RFP #199d) from qualified, independent individuals and firms to provide Global Tactical Asset Allocation Investment Management and related Services to the Comptroller and Board for the Texas Guaranteed Tuition Program (Plan or TTF I). The successful respondent(s) will assist Comptroller and the Board in investing and managing the Plan funds according to the new mandate and provide additional, reasonably-related services for the Plan funds. The successful respondent(s) will be expected to

begin performance of the contract or contracts, if any, on or about June 1, 2011, or as soon thereafter as practical.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th Street, Room 201, Austin, Texas 78774 (Issuing Office), telephone number: (512) 305-8673, to obtain a copy of the RFP. Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP was made available for pick-up at the above-referenced address on Friday, January 14, 2011, after 10:00 a.m., Central Time (CT), and during normal business hours thereafter. Comptroller also made the complete RFP available electronically on the Electronic State Business Daily at: <http://esbd.cpa.state.tx.us> after 10:00 a.m. CT on Friday, January 14, 2011.

Non-Mandatory Letters of Intent and Questions: All Non-Mandatory Letters of Intent and questions regarding the RFP must be sent via facsimile to Mr. Harris at: (512) 463-3669, not later than 2:00 p.m. CT, on January 21, 2011. Official responses to questions received by the foregoing deadline will be posted electronically on the Electronic State Business Daily no later than Friday, January 28, 2011, or as soon thereafter as practical. Non-Mandatory Letters of Intent or Questions received after the deadline will not be considered. Respondents shall be solely responsible for confirming the timely receipt of Non-Mandatory Letters of Intent and Questions in the Issuing Office.

Closing Date: Proposals must be received in the Assistant General Counsel's Office at the address specified above no later than 2:00 p.m. CT, on Friday, February 4, 2011. Proposals received after this time and date will not be considered. Proposals will not be accepted from respondents that do not submit proposals by the foregoing deadline. Respondents shall be solely responsible for confirming the timely receipt of proposals in the Issuing Office.

Evaluation and Award Procedure: All proposals will be subject to evaluation based on the evaluation criteria and procedures set forth in the RFP. The Board will make the final decision regarding the award of a contract, if any. The Board and Comptroller reserve the right to award one or more contracts under this RFP. The Board and Comptroller reserve the right to accept or reject any or all proposals submitted. The Board and Comptroller are under no legal or other obligation to execute any contracts on the basis of this notice or the distribution of any RFP. The Board and Comptroller shall not pay for any costs incurred by any entity in responding to this Notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP - January 14, 2011, after 10:00 a.m. CT; Non-Mandatory Letters of Intent and Questions Due - January 21, 2011, 2:00 p.m. CT; Official Responses to Questions Posted - January 28, 2011, or as soon thereafter as practical; Proposals Due - February 4, 2011, 2:00 p.m. CT; Contract Execution - June 1, 2011, or as soon thereafter as practical; Commencement of Project Activities - June 1, 2011, or as soon thereafter as practical.

TRD-201100019
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: January 5, 2011

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/10/11 - 01/16/11 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/10/11 - 01/16/11 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 01/01/11 - 01/31/11 is 18% for Consumer/Agricultural/Commercial/credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 01/01/11 - 01/31/11 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

³For variable rate commercial transactions only.

TRD-201100012
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: January 4, 2011

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Employees Retirement System of Texas

Contract Award Announcement

This contract award notice is being filed by the Employees Retirement System of Texas in relation to a contract award for dependent eligibility auditing services. The notice of request for proposals appeared in the January 15, 2010, issue of the *Texas Register* (35 TexReg 393).

The contractor is Hewitt Associates L.L.C. ("Hewitt"), 100 Half Day Road, Lincolnshire, IL 60069. Hewitt will perform dependent eligibility audits of the Participants enrolled in the health programs under the Texas Employees Group Benefits Program. The estimated total cost of the contract is \$2,569,010. The contract was executed on January 4, 2011, and the term of the contract is to remain in force until terminated in accordance with the Contract.

TRD-201100016
Paula A. Jones
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Filed: January 4, 2011

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Texas Commission on Environmental Quality

Notice of District Petition

Notice issued December 30, 2010.

TCEQ Internal Control No. 09132010-D01; Memorial Point Utility District of Polk County (the District) filed an application with the Texas Commission on Environmental Quality (TCEQ) for authority to adopt and impose a uniform operation and maintenance standby fee of \$12.27 per month (\$147.24 per year) per equivalent single-family connection for calendar years 2011 - 2013 on unimproved property within the District. The application was filed pursuant to Chapter 49 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office

of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case 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 Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-201100021
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 5, 2011



Notice of Water Quality Applications

The following notice was issued on December 20, 2010 through December 31, 2010.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN

30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

SOUTHWESTERN ELECTRIC POWER COMPANY which operates Knox Lee Power Plant, a steam electric power generating station, has applied for the renewal of TPDES Permit No. WQ0001307000, which authorizes the discharge of once-through cooling water and previously monitored effluent (low volume wastewater via internal Outfall 101) via Outfall 001 at a daily average flow not to exceed 740 million gallons per day (MGD). The facility is located on the north side of Lake Cherokee and 1,200 feet south of State Highway 149, approximately one mile southeast of the intersection of State Highway 2906 and State Highway 149, Gregg County, Texas 75603.

CITY OF FLORESVILLE has applied for a renewal of TPDES Permit No. WQ0010085001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located at 815 Goliad Road at the intersection of Standish Street and Goliad Road in the City of Floresville in Wilson County, Texas 78114.

US DEPARTMENT OF JUSTICE has applied for a renewal of TPDES Permit No. WQ0013461001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day. The current permit also authorizes the disposal of treated domestic wastewater via irrigation of 82 acres of landscaping. The facility and effluent irrigation site are located on Federal Correctional Institute Three Rivers land, approximately 2,000 feet south of State Highway 72 and eight miles west of the Town of Three Rivers in Live Oak County, Texas 78071.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201100022
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 5, 2011



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Dalhart	Dallam-Hartley Counties Hospital District dba Coon Memorial Hospital	L06365	Dalhart	00	12/06/10
San Antonio	Bakthavathsalam Athreya, M.D., P.A.	L06363	San Antonio	00	12/14/10
Sherman	Sherman/Grayson Hospital, L.L.C. dba Texas Health Presbyterian Hospital-WNJ	L06354	Sherman	00	12/10/10
Throughout TX	Quality Inspections and Testing, Inc.	L06371	New Iberia, LA	00	12/09/10
Throughout TX	Mistras Group, Inc.	L06369	Pasadena	00	11/17/10

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Austin	Austin Nuclear Pharmacy, Inc.	L05591	Austin	11	11/17/10
Austin	Austin Nuclear Pharmacy, Inc.	L05591	Austin	13	12/02/10
Beaumont	Sartomer Company, Inc.	L05937	Beaumont	04	12/01/10
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	129	12/06/10
Bedford	Texas Oncology P.A. dba Edwards Cancer Center	L05550	Bedford	21	12/02/10
Borger	Chevron Phillips Chemical Company, L.P.	L05181	Borger	18	12/13/10
Brooks City Base	Aecom Technical Services, Inc.	L05449	Brooks City Base	09	12/02/10
Cleveland	Cleveland Regional Medical Center, L.P.	L02055	Cleveland	43	12/08/10
Clifton	Goodall Witcher Healthcare Foundation	L03427	Clifton	18	12/07/10
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	110	11/30/10
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	111	12/18/10
Corpus Christi	Associates in Heart Disease dba Corpus Christi Heart Clinic and Vascular Institute	L05023	Corpus Christi	18	12/10/10
Corpus Christi	True Medical Imaging	L06191	Corpus Christi	04	12/10/10
Dallas	Methodist Hospital of Dallas Radiology Services	L00659	Dallas	82	12/01/10
Dallas	Louisiana Texas Healthcare Management, L.L.C. dba South Hampton Community Hospital	L06259	Dallas	02	12/02/10
Dallas	Louisiana Texas Healthcare Management, L.L.C. dba South Hampton Community Hospital	L06259	Dallas	03	12/10/10
Dallas	The University of Texas Southwestern Medical Center at Dallas	L00384	Dallas	107	12/08/10
Dallas	Texas Oncology, P.A.	L04878	Dallas	43	12/08/10
Dallas	Baylor College of Dentistry	L00323	Dallas	40	12/08/10
Duncanville	Dallas Oncology Consultants, P.A.	L06352	Duncanville	01	12/10/10
Edinburg	The University of Texas Pan American	L00656	Edinburg	32	12/09/10
Edinburg	Doctors Hospital at Renaissance, Ltd. dba Doctors Hospital at Renaissance	L05761	Edinburg	27	12/10/10
Fort Worth	Physician Reliance, L.P. Texas Oncology at Klabzuba	L05545	Fort Worth	39	12/08/10
Fort Worth	Columbia Plaza Medical Center of Fort Worth Subsidiary, L.P. dba Plaza Medical Center of Fort Worth	L02171	Fort Worth	56	12/09/10

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

Groesbeck	South Limestone Hospital District	L05932	Groesbeck	04	12/03/10
Harlingen	A.M. Cardiovascular Specialists	L06057	Harlingen	03	11/30/10
Houston	American Diagnostic Technologies, L.L.C.	L05514	Houston	60	11/30/10
Houston	Houston Medical Imaging	L05184	Houston	13	11/30/10
Houston	CHCA Woman's Hospital, L.P. dba The Woman's Hospital of Texas	L04834	Houston	17	11/30/10
Houston	Houston Refining, L.P.	L00187	Houston	67	12/03/10
Houston	Houston Northwest Operating Company, L.L.C. dba Houston Northwest Medical Center	L06190	Houston	10	12/07/10
Houston	NIS Holdings, Inc. dba Nuclear Imaging Services	L05775	Houston	67	12/13/10
Katy	Memorial Hermann Hospital System dba Memorial Hermann Katy Hospital	L03052	Katy	60	12/08/10
Lewisville	Texas Oncology, P.A. dba Lake Vista Cancer Center	L05526	Lewisville	17	12/10/10
Lubbock	Covenant Health System dba Covenant Medical Center - Lakeside	L01547	Lubbock	96	12/01/10
Lubbock	Covenant Health System dba Joe Arrington Cancer Research and Treatment Center	L06028	Lubbock	12	12/08/10
Nassau Bay	Christus Health dba Christus St. John Hospital	L03291	Nassau Bay	33	11/16/10
North Richland Hills	Columbia North Hills Hospital Subsidiary, L.P. dba North Hills Hospital	L02271	North Richland Hills	70	11/30/10
Plano	Comprehensive Breast Care Center of Texas, Inc.	L05601	Plano	12	12/01/10
Queen City	International Paper Company	L01686	Queen City	37	11/30/10
San Antonio	Salvatore A. Barbaro, III., M. D., P. A.	L05680	San Antonio	07	11/19/10
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	191	12/06/10
San Antonio	VHS San Antonio Partners, L.L.C. dba Baptist Health System	L00455	San Antonio	203	12/08/10
Sherman	Texas Oncology, P.A. dba North Texas PET Imaging	L05502	Sherman	14	12/08/10
Stafford	Aloki Enterprise, Inc.	L06257	Stafford	10	12/08/10
The Woodlands	St. Luke's The Woodlands Hospital	L05763	The Woodlands	21	12/01/10
Throughout TX	Recon Petrotechnologies, Inc.	L06026	Alvarado	12	11/30/10
Throughout TX	KXR Inspection, Inc.	L01074	Barker	113	11/30/10
Throughout TX	Professional Service Industries Incorporated	L04938	Clute	11	12/02/10
Throughout TX	Rone Engineering Services, Ltd.	L02356	Dallas	36	12/01/10
Throughout TX	Halliburton Energy Services, Inc.	L00442	Houston	122	12/10/10
Throughout TX	Dialog Wireline Services, L.L.C.	L06104	Kilgore	05	12/07/10
Throughout TX	Techcorr USA, L.L.C. dba AUT Specialists, L.L.C.	L05972	Palestine	80	12/03/10
Throughout TX	City of Pampa	L06041	Pampa	04	12/02/10
Throughout TX	NDS Products, Inc.	L00991	Pasadena	48	11/30/10
Throughout TX	Duininck, Inc.	L03957	Roanoke	18	12/02/10
Throughout TX	Wind Consultants, L.L.C. dba Renewable Resource Consultants, L.L.C.	L06105	Round Rock	03	12/06/10
Throughout TX	Geotechnical Consultants, Inc.	L04819	San Antonio	12	12/06/10
Throughout TX	Schlumberger Technology Corporation	L00764	Sugar Land	119	12/01/10
Throughout TX	Schlumberger Technology Corporation	L01833	Sugar Land	162	12/02/10
Tyler	Mother Frances Hospital Regional Health Care Center	L01670	Tyler	162	12/06/10
Tyler	East Texas Medical Center	L00977	Tyler	148	12/08/10
Waco	Providence Health center	L01638	Waco	57	12/06/10

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Throughout TX	Applied Standards Inspection, Inc.	L3072	Beaumont	114	12/09/10

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Cleburne	Cleburne Cancer Center	L06023	Cleburne	02	11/24/10
Mesquite	National Surgical JVI, Ltd. dba Health South Surgery Center	L05654	Mesquite	04	12/08/10
Sherman	Wilson N. Jones Memorial Hospital	L02384	Sherman	37	12/10/10

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

TRD-201100011
 Lisa Hernandez
 General Counsel
 Department of State Health Services
 Filed: January 4, 2011

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 Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Humble	Humble Surgical Hospital	L06357	Humble	00	12/14/10
Throughout TX	Ninyo & Moore, Geotechnical & Environmental Consultants	L06379	Houston	00	12/15/10
Throughout TX	Langerman Foster Engineering Co., L.L.C.	L06382	Waco	00	12/29/10

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Alice	Christus Spohn Health System Corporation dba Christus Spohn Hospital Alice	L02390	Alice	44	12/21/10
Amarillo	Baptist St. Anthony's Health System	L01259	Amarillo	91	12/29/10
Angleton	Isotherapeutics Group, L.L.C.	L05969	Angleton	16	12/17/10
Austin	The University of Texas at Austin	L00485	Austin	84	12/20/10
Austin	Seton Healthcare dba Seton Medical Center Austin	L02896	Austin	114	12/20/10
Austin	St. David's Healthcare Partnership L.P., L.L.P. dba North Austin Medical Center	L04910	Austin	90	12/17/10
Bay City	Equistar Chemicals, L.P.	L03938	Bay City	25	12/16/10
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	130	12/29/10
Bedford	Texas Health Harris Methodist Hospital Hurst Euless - Bedford	L02303	Bedford	37	12/21/10
Bedford	Texas Oncology, P.A. dba Edwards Cancer Center	L05550	Bedford	22	12/17/10
Burnet	Seton Healthcare dba Seton Highland Lakes Hospital	L03515	Burnet	44	12/15/10
Corpus Christi	Cardinal Health	L04043	Corpus Christi	41	12/16/10
Corpus Christi	Cardinal Health	L04043	Corpus Christi	42	12/27/10
Crockett	East Texas Medical Center Crockett	L01411	Crockett	33	12/22/10
Dallas	Medical City Dallas Hospital	L01976	Dallas	185	12/27/10
Dallas	Afridi Heart Care, P.A.	L06005	Dallas	06	12/28/10
Dallas	Rosa of North Dallas, L.L.C.	L06186	Dallas	03	12/14/10
El Paso	EP Premier Medical Group, P.A. dba Premier Diagnostic Center	L05198	El Paso	10	12/29/10
El Paso	Southwest X-Ray, L.P.	L05207	El Paso	11	12/17/10
El Paso	Carlos A. Velez, M.D., P.A. dba Heart and Vascular Partners	L06296	El Paso	01	12/29/10
Fort Worth	Radiology Associates	L03953	Fort Worth	62	12/28/10
Fort Worth	Oncology Hematology Consultants P.A. dba The Center for Cancer and Blood Disorders	L05919	Fort Worth	17	12/22/10
Houston	The Methodist Hospital	L00457	Houston	177	12/21/10
Houston	Baylor College of Medicine	L00680	Houston	104	12/15/10
Houston	TH Healthcare, Ltd. dba Park Plaza Hospital	L02071	Houston	58	12/29/10
Houston	CMP Group, L.L.C.	L02397	Houston	19	12/17/10
Houston	Mallinckrodt Medical, Inc.	L03008	Houston	84	12/17/10

AMENDMENTS TO EXISTING LICENSES ISSUED (continued):

Houston	New Medical Horizons II Ltd. dba Cypress Fairbanks Medical Center	L03424	Houston	35	12/29/10
Houston	Gulf Coast Cancer Center	L05185	Houston	13	12/22/10
Houston	Methodist Health Centers dba Methodist Willowbrook Hospital	L05472	Houston	37	12/21/10
Houston	Methodist Health Centers dba Methodist Willowbrook Hospital	L05472	Houston	38	12/22/10
Houston	American Diagnostic Tech, L.L.C.	L05514	Houston	61	12/20/10
Houston	Nuclear Imaging Services, L.P.	L05791	Houston	11	12/15/10
Houston	One Step Diagnostic, Inc.	L05990	Houston	09	12/22/10
Houston	The University of Texas M.D. Anderson Cancer Center	L06227	Houston	16	12/23/10
Houston	The Methodist Hospital Research Institute	L06331	Houston	02	12/29/10
Lewisville	Columbia Medical Center of Lewisville Subsidiary, L.P. dba Medical Center of Lewisville	L02739	Lewisville	57	12/29/10
Lubbock	Rosa of the South Plains, L.L.P. dba Rosa of the South Plains	L05484	Lubbock	16	12/29/10
McAllen	Texas Oncology, P.A. dba South Texas PET Imaging	L05485	McAllen	09	12/27/10
Mesquite	Mesquite Heart Center, P.A.	L05132	Mesquite	17	12/22/10
Midland	Midland County Hospital District dba Midland Memorial Hospital	L00728	Midland	98	12/29/10
Plano	Texas Heart Hospital of the Southwest, L.L.P. dba The Heart Hospital Baylor Plano	L06004	Plano	14	12/27/10
Port Arthur	The Medical Center of Southeast Texas, L.P.	L01707	Port Arthur	70	12/22/10
San Angelo	Shannon Medical Center	L02174	San Angelo	61	12/20/10
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	192	12/22/10
San Antonio	VHS San Antonio Partners, L.L.C. dba Baptist Health System	L00455	San Antonio	204	12/20/10
San Antonio	VHS San Antonio Partners, L.L.C. dba Baptist Health System	L00455	San Antonio	205	12/27/10
San Antonio	Methodist Healthcare System of San Antonio Ltd., L.L.P.	L00594	San Antonio	280	12/13/10
San Antonio	Southwest General Hospital, L.L.P. dba Southwest General Hospital	L02689	San Antonio	40	12/17/10
San Antonio	Cardiology Clinic of San Antonio, P.A.	L04489	San Antonio	39	12/13/10
San Antonio	Central Cardiovascular Institute of San Antonio	L04892	San Antonio	21	12/20/10
San Antonio	Methodist Healthcare System of San Antonio, Ltd. dba The Gamma Knife Center	L05076	San Antonio	29	12/20/10
Spring	Southwestern Imaging Systems and Services, L.P.	L06241	Spring	02	12/14/10
Sugarland	U.S. Imaging, Inc. dba Fort Bend Imaging	L04459	Sugarland	36	12/28/10
Taylor	Scott and White Hospital - Taylor	L03657	Taylor	30	12/21/10
Texas City	Ineos Nova, L.L.C.	L00354	Texas City	38	12/15/10
The Woodlands	St. Luke's Community Health Services dba St. Luke's The Woodlands Hospital	L06370	The Woodlands	00	12/20/10
Throughout TX	Ineos USA, L.L.C.	L01422	Alvin	71	12/14/10
Throughout TX	Kleinfelder Central, Inc.	L01351	Austin	73	12/20/10
Throughout TX	Wildcat Wireline, L.L.C.	L06199	Benbrook	01	12/28/10
Throughout TX	Fargo Consultants, Inc.	L05300	Dallas	11	12/16/10
Throughout TX	Halliburton Energy Services, Inc.	L02113	Houston	117	12/16/10
Throughout TX	Nuclear Scanning Services, Inc.	L04339	Houston	26	12/17/10
Throughout TX	NIS Holdings, Inc. dba Nuclear Imaging Services	L05775	Houston	68	12/15/10

AMENDMENTS TO EXISTING LICENSES ISSUED (continued):

Throughout TX	Ninyo & Moore, Geotechnical and Environmental Consultants	L06379	Houston	01	12/27/10
Throughout TX	American X-Ray & Inspection Services, Inc.	L05974	Midland	28	12/21/10
Throughout TX	Tracerco	L03096	Pasadena	75	12/22/10
Throughout TX	Texas Gamma Ray, L.L.C.	L05561	Pasadena	96	12/17/10
Throughout TX	Mistras Group, Inc.	L06369	Pasadena	01	12/15/10
Throughout TX	Weaver Services, Inc. dba WSI Cased Hole Specialist	L01489	Snyder	35	12/14/10
Throughout TX	Ludlum Measurements, Inc.	L01963	Sweetwater	90	12/20/10
Tomball	Northwest Houston Heart Center	L05958	Tomball	09	12/15/10
Tyler	Nutech, Inc.	L04274	Tyler	66	12/27/10
Tyler	Cardiovascular Associates of East Texas, P.A.	L04800	Tyler	25	12/22/10

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Texas City	Marathon Petroleum Company, L.L.C.	L04431	Texas City	28	12/28/10
Throughout TX	Professional Service Industries	L03924	McKinney	27	12/16/10
Throughout TX	Perry Equipment Corporation	L00330	Mineral Wells	42	12/16/10
Throughout TX	Allen Inspection Service	L03003	Odessa	12	12/17/10

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Goodyear Tire & Rubber Company	L00264	Houston	30	12/16/10
Midland	Permian Cardiology Associates	L05716	Midland	07	12/29/10
Richardson	Siemens Government Services, Inc.	L05660	Richardson	07	12/17/10
Throughout TX	Kakivik Asset Management	L06211	Trinity	03	12/16/10

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, TX 78714-9347. For information call (512) 834-6688.

TRD-201100023
 Lisa Hernandez
 General Counsel
 Department of State Health Services
 Filed: January 5, 2011



Texas Department of Housing and Community Affairs

Request for Proposals for Document Preparation Counsel

SUMMARY. The Texas Department of Housing and Community Affairs ("TDHCA") and the Texas Department of Rural Affairs ("TDRA") are issuing a joint Request for Proposals ("RFP") for Document Prepa-

ration Counsel. Counsel will provide legal services in connection with real estate document review and single family loan document preparation for the Neighborhood Stabilization Program ("NSP"), a federally funded community development block grant program created under the Housing and Economic Recovery Act of 2008.

DEADLINE FOR SUBMISSION. The deadline for submission in response to the RFP is 4:00 p.m., Central Daylight Saving Time, Friday, February 11, 2011. No proposal received after the deadline will be considered.

TDHCA and TDRA reserve the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired by TDHCA and TDRA, and both intend to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit TDHCA or TDRA to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for proposals in no way obligates TDHCA or TDRA to award a contract or to pay any costs incurred in the preparation of a response.

Law firms interested in submitting a proposal should contact either: Mr. Timothy K. Irvine, Chief of Staff and General Counsel for TDHCA, at (512) 475-3296, P.O. Box 13941, Austin, Texas 78711; Ms. Anne Osburn, General Counsel for TDRA, at (512) 936-6342, P.O. Box 12877, Austin, TX 78711; or visit TDHCA's website at www.tdhca.state.tx.us, for a complete copy of the RFP. Communication with: any member of the TDHCA Board or the TDRA Board, the TDHCA Executive Director, the TDRA Executive Director, TDHCA staff other than Mr. Irvine or his assistant, or TDRA staff other than Ms. Osburn or her assistant, concerning any matter related to this request for proposals is grounds for immediate disqualification.

TRD-201100013
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: January 4, 2011

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Texas Department of Insurance, Division of Workers' Compensation

Correction of Error

The Texas Department of Insurance, Division of Workers' Compensation adopted amendments and new sections under Title 28, Chapter 134, Subchapter F, concerning Pharmaceutical Benefits, in the December 17, 2010, issue of the *Texas Register* (35 TexReg 11344). The division adopted amendments to §134.500 and §134.506, as well as new §§134.510, 134.520, 134.530, 134.540, and 134.550.

Due to an error in the division's document submission, the effective date for the rule adoption that appeared on page 11378 was incorrectly shown as "September 1, 2011." The corrected effective date is "January 17, 2011."

TRD-201100025

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Texas Department of Licensing and Regulation

Vacancy on Electrical Safety and Licensing Advisory Board

The Texas Department of Licensing and Regulation (Department) announces a vacancy on the Electrical Safety and Licensing Advisory Board (Board) established by Texas Occupations Code, Chapter 1305. The pertinent rules may be found in 16 TAC §73.65. The purpose of

the Electrical Safety and Licensing Advisory Board is to provide advice and recommendations to the Department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, electrical code requirements, and continuing education requirements.

The Board is composed of nine members appointed by the presiding officer of the Texas Commission on Licensing and Regulation (Commission), with the Commission's approval. The Board consists of three master electrician members, three journeyman electrician members, and three public members. Members serve staggered six-year terms. This announcement is for one position of a Master electrician.

Interested persons may download an application from the Texas Department of Licensing and Regulation website at: www.license.state.tx.us. Applicants may also request an application from the Department by telephone (800) 803-9202, fax (512) 475-2874 or email advisory.boards@license.state.tx.us.

Applicants may be asked to appear for an interview; however any required travel for an interview would be at the applicant's expense.

TRD-201100017
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: January 4, 2011

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Vacancy on Weather Modification Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces a vacancy on the Weather Modification Advisory Committee (Committee) established by Agriculture Code, Title 9, Weather and Climate, Chapter 301. The purpose of the Weather Modification Advisory Committee is to advise the Texas Commission of Licensing and Regulation (Commission) on legislation, policies, administration, research, and other matters related to the duties, powers, or function of the Texas Department of Licensing and Regulation under this chapter.

The Committee is composed of five members appointed by the presiding officer of the Commission, with the Commission's approval. The members represent the following professional interests: Businessman, Engineer, Atmospheric Scientist, Attorney, and Agricultural Producer. Members serve at the will of the Commission. This announcement is for the position of an engineer.

Interested persons may download an application from the Texas Department of Licensing and Regulation website at: www.license.state.tx.us. Applicants may also request an application from the Department by telephone (800) 803-9202, fax (512) 475-2874 or email advisory.boards@license.state.tx.us.

Applicants may be asked to appear for an interview; however any required travel for an interview would be at the applicant's expense.

TRD-201100018
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: January 4, 2011

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Texas Lottery Commission

Instant Game Number 1304 "Double Dollars"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1304 is "DOUBLE DOLLARS". The play style is "key number match with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1304 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 1304.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play

Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, DOLLAR BILL SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 and \$1,000.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1304 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
DOLLAR BILL SYMBOL	DBL
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100.00	ONE HUND
\$1,000	ONE THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed

and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off

play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00 or \$100.

H. High-Tier Prize - A prize of \$1,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1304), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 1304-0000001-001.

K. Pack - A pack of "DOUBLE DOLLARS" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 146 to 150 will be on the last page with backs exposed. Tickets 001 will be folded over so the front of ticket 001 and 010 will be exposed.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "DOUBLE DOLLARS" Instant Game No. 1304 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "DOUBLE DOLLARS" Instant Game is determined once the latex on the ticket is scratched off to expose 11 (eleven) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to the WINNING NUMBER play symbol, the player wins the PRIZE for that number. If a player reveals a "dollar bill" play symbol, the player wins DOUBLE the PRIZE for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 11 (eleven) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 11 (eleven) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 11 (eleven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 11 (eleven) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No duplicate non-winning prize symbols on a ticket.

C. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

D. Non-winning prize symbols will never be the same as the winning prize symbol(s).

E. The "dollar bill" (doubler) play symbol will only appear on winning tickets as dictated by the prize structure.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 5 and \$5).

G. The top prize will appear on every ticket unless otherwise restricted by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "DOUBLE DOLLARS" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "DOUBLE DOLLARS" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "DOUBLE DOLLARS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "DOUBLE DOLLARS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "DOUBLE DOLLARS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 12,000,000 tickets in the Instant Game No. 1304. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1304 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	1,440,000	8.33
\$2	840,000	14.29
\$4	300,000	40.00
\$5	80,000	150.00
\$10	80,000	150.00
\$20	25,000	480.00
\$50	19,800	606.06
\$100	900	13,333.33
\$1,000	100	120,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.31. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1304 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1304, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201007420

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: December 30, 2010



Instant Game Number 1305 "Triple Lucky Diamonds"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1305 is "TRIPLE LUCKY DIAMONDS". The play style is "key number match with doubler and tripler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1305 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 1305.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, DOUBLE DIAMOND SYMBOL, TRIPLE DIAMOND SYMBOL, \$3.00, \$6.00, \$8.00, \$9.00, \$10.00, \$15.00, \$18.00, \$24.00, \$30.00, \$60.00, \$90.00, \$100, \$300, \$1,000, \$3,000 and \$30,000.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1305 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	THON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
DOUBLE DIAMOND SYMBOL	DBL
TRIPLE DIAMOND SYMBOL	TPL
\$3.00	THREE\$
\$6.00	SIX\$
\$8.00	EIGHT\$
\$9.00	NINE\$

\$10.00	TEN\$
\$15.00	FIFTN
\$18.00	EGHTN
\$24.00	TWY FOR
\$30.00	THIRTY
\$60.00	SIXTY
\$90.00	NINTY
\$100	ONE HUND
\$300	THR HUND
\$1,000	ONE THOU
\$3,000	THR THOU
\$30,000	30 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$3.00, \$6.00, \$9.00, \$15.00, \$18.00 or \$24.00.

G. Mid-Tier Prize - A prize of \$30.00, \$60.00, \$90.00 or \$300.

H. High-Tier Prize - A prize of \$3,000 or \$30,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1305), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 1305-0000001-001.

K. Pack - A pack of "TRIPLE LUCKY DIAMONDS" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of ticket 001 and the back of ticket 125. Configuration B will show the back of ticket 001 and the front of ticket 125.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "TRIPLE LUCKY DIAMONDS" Instant Game No. 1305 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "TRIPLE LUCKY DIAMONDS" Instant Game is determined once the latex on the ticket is scratched off to expose 34 (thirty-four) Play Symbols. If a player matches any of YOUR NUM-

BERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE for that number. If a player reveals a "double diamond" play symbol, the player wins DOUBLE the PRIZE for that symbol. If a player reveals a "triple diamond" play symbol, the player wins TRIPLE the PRIZE for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

- Exactly 34 (thirty-four) Play Symbols must appear under the latex overprint on the front portion of the ticket;
- Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
- Each of the Play Symbols must be present in its entirety and be fully legible;
- Each of the Play Symbols must be printed in black ink except for dual image games;
- The ticket shall be intact;
- The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
- The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
- The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
- The ticket must not be counterfeit in whole or in part;
- The ticket must have been issued by the Texas Lottery in an authorized manner;
- The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
- The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
- The ticket must be complete and not miscut, and have exactly 34 (thirty-four) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 34 (thirty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 34 (thirty-four) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. The "DOUBLE DIAMOND" (doubler) and "TRIPLE DIAMOND" (tripler) play symbols will only appear on intended winning tickets and only as dictated by the prize structure.

C. No four or more matching non-winning prize symbols on a ticket.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 3 and \$3).

H. The top prize will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLE LUCKY DIAMONDS" Instant Game prize of \$3.00, \$6.00, \$9.00, \$15.00, \$18.00, \$24.00, \$30.00, \$60.00, \$90.00 or \$300, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket;

provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$60.00, \$90.00 or \$300 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLE LUCKY DIAMONDS" Instant Game prize of \$3,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLE LUCKY DIAMONDS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "TRIPLE LUCKY DIAMONDS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "TRIPLE LUCKY DIAMONDS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 5,040,000 tickets in the Instant Game No. 1305. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1305 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$3	322,560	15.63
\$6	443,520	11.36
\$9	90,720	55.56
\$15	30,240	166.67
\$18	50,400	100.00
\$24	40,320	125.00
\$30	40,320	125.00
\$60	15,708	320.86
\$90	5,460	923.08
\$300	1,000	5,040.00
\$3,000	20	252,000.00
\$30,000	7	720,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.84. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1305 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1305, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201007421

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: December 30, 2010



Instant Game Number 1307 "The Price Is Right®"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1307 is "THE PRICE IS RIGHT®".
The play style is "key number match with auto win and win all".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1307 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1307.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, DOLLAR BILL SYMBOL, STAR SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$75.00, \$100, \$500, \$1,000 and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1307 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	THON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
DOLLAR BILL SYMBOL	BILL
STAR SYMBOL	WINALL
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$25.00	TWY FIV
\$40.00	FORTY
\$50.00	FIFTY
\$75.00	SVY FIV
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$75.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$5,000. or \$50,000.

I. Second-chance Drawing Prizes to be awarded through second-chance drawings. THE PRICE IS RIGHT® Las Vegas Trip Prize is The Trip Prize is a four-day, three-night trip for each Prizewinner (the Prizewinner) and one (1) guest to Las Vegas, Nevada. Each two-person trip is valued at ten thousand dollars (\$10,000) and includes: Roundtrip coach airfare on a major airline for two (2) between any U.S. international airport located in the continental U.S. and McCarran International Airport in Las Vegas, Nevada; All ground transfers between the McCarran International airport, the hotel and the studio; Accommodations of one (1) double occupancy hotel room for three (3) nights; One thousand dollars (\$1,000) spending money to be provided by SGI to the Prizewinner no later than two (2) weeks prior to the scheduled trip departure date; Each Prizewinner will be awarded four thousand dollars (\$4,000) prize money by SGI no later than two (2) weeks after the scheduled return trip date. Two (2) tickets to THE PRICE IS RIGHT® Live stage show. THE PRICE IS RIGHT® Live stage show will include two (2) events: THE PRICE IS RIGHT® Experience Game (the Experience Game). Each Prizewinner will participate in the Experience Game. Big Money Wheel Bonus Spin (the Big Money Wheel Bonus Spin). Each Prizewinner may or may not participate in this event based on the outcome of a random drawing. Each Prizewinner (or their proxy) must be 21 years of age to participate in THE PRICE IS RIGHT® Live stage show. Each Prizewinner shall be solely responsible for the actions of their guest at the stage show. If a Prizewinner's guest is under 18 years of age, the Prizewinner must be the parent or legal guardian of such guest.

J. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1307), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1307-0000001-001.

L. Pack - A pack of "THE PRICE IS RIGHT®" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "THE PRICE IS RIGHT®" Instant Game No. 1307 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "THE PRICE IS RIGHT®" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE for that number. If a player reveals a "dollar bill" play symbol, the player wins the PRIZE for that symbol. If a player reveals a "star" play symbol, the player WINS ALL 20 PRIZES! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.
- B. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.
- C. No duplicate WINNING NUMBER play symbols on a ticket.
- D. No more than four matching non-winning prize symbols on a ticket.
- E. A non-winning prize symbol will never be the same as a winning prize symbol.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).

G. The "DOLLAR BILL" (auto win) will never appear on tickets containing the "STAR (win all) play symbol.

H. The "STAR" (win all) play symbol will only appear on intended winning tickets as dictated by the prize structure.

I. When the "STAR" (win all) play symbol appears, there will be no occurrence of any YOUR NUMBER play symbols matching any WINNING NUMBER play symbols.

J. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "THE PRICE IS RIGHT®" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$75.00, \$100, \$200 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required to pay a \$25.00, \$50.00, \$75.00, \$100, \$200 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "THE PRICE IS RIGHT®" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "THE PRICE IS RIGHT®" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp pro-

gram or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a second-chance drawing, the debt to the state must be paid within 30 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "THE PRICE IS RIGHT®" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "THE PRICE IS RIGHT®" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 tickets in the Instant Game No. 1307. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1307 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	660,800	10.71
\$10	755,200	9.38
\$15	212,400	33.33
\$20	188,800	37.50
\$25	37,760	187.50
\$50	37,760	187.50
\$75	7,257	975.61
\$100	2,655	2,666.67
\$200	295	24,000.00
\$500	1,121	6,315.79
\$1,000	95	74,526.32
\$5,000	10	708,000.00
\$50,000	7	1,011,428.57

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.72. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1307 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1307, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201100007
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: January 3, 2011



Instant Game Number 1308 "Hog Mania"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1308 is "HOG MANIA". The play style is "match 3 of 6 with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1308 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 1308.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$1,000 or PIG SYM-BOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1308 - 1.2D

PLAY SYMBOL	CAPTION
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100.00	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$6.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$40.00, \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1308), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 1308-0000001-001.

K. Pack - A pack of "HOG MANIA" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 to 010 on the next page; etc.; and tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "HOG MANIA" Instant Game No. 1308 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "HOG MANIA" Instant Game is determined once the latex on the ticket is scratched off to expose 6 (six) Play Symbols.

If a player reveals 3 matching amounts, the player wins that amount. If a player reveals 2 matching amounts and a "pig" play symbol, the player wins DOUBLE that amount. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 6 (six) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 6 (six) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 6 (six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 6 (six) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No four (4) or more identical play symbols.

C. This game can only win one (1) time.

D. The "PIG" (doubler) play symbol will never appear more than once on a ticket.

E. The "PIG" (doubler) play symbol will only appear on intended winning tickets as dictated by the prize structure.

F. The "PIG" (doubler) play symbol will never appear on a ticket containing 3 identical play symbols.

G. The top prize will appear at least once on every ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "HOG MANIA" Instant Game prize of \$1.00, \$2.00, \$3.00, \$6.00, \$10.00, \$20.00, \$40.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a

claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "HOG MANIA" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HOG MANIA" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "HOG MANIA" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "HOG MANIA" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 10,080,000 tickets in the Instant Game No. 1308. The approximate number and value of prizes in the game are as follows:

Figure 2:16 TAC GAME NO. 1308 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	873,600	11.54
\$2	1,159,200	8.70
\$3	67,200	150.00
\$6	50,400	200.00
\$10	67,200	150.00
\$20	50,400	200.00
\$40	4,200	2,400.00
\$50	2,520	4,000.00
\$100	1,050	9,600.00
\$500	210	48,000.00
\$1,000	168	60,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.43. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1308 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1308, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant

to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201007422
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: December 30, 2010



Instant Game Number 1310 "Triple Your Money"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1310 is "TRIPLE YOUR MONEY". The play style is "key number match with tripler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1310 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 1310.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play

Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, TRIPLE DOLLAR SYMBOL, \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$60.00, \$200, \$1,000 and \$20,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1310 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
TRIPLE DOLLAR SYMBOL	TPL
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$30.00	THIRTY
\$60.00	SIXTY
\$200	TWO HUND
\$1,000	ONE THOU
\$20,000	20 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$30.00, \$60.00 and \$200.

H. High-Tier Prize - A prize of \$1,000 or \$20,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1310), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 1310-000001-001.

K. Pack - A pack of "TRIPLE YOUR MONEY" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of ticket 001 and the back of ticket 125. Configuration B will show the back of ticket 001 and the front of ticket 125.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "TRIPLE YOUR MONEY" Instant Game No. 1310 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "TRIPLE YOUR MONEY" Instant Game is determined once the latex on the ticket is scratched off to expose 22 (twenty-two) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to either WINNING NUMBER play symbol, the player wins the PRIZE for that number. If the player reveals a "TRIPLE DOLLAR" play symbol, the player wins TRIPLE the PRIZE for that symbol! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 22 (twenty-two) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.
- B. No three or more duplicate non-winning prize symbols will appear on a ticket.
- C. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.
- D. No duplicate WINNING NUMBERS play symbols on a ticket.
- E. Non-winning prize symbols will never be the same as the winning prize symbol(s).
- F. No prize amount in a non-winning spot will correspond with the play symbol (i.e., 5 and \$5).
- G. The "\$\$\$" (tripler) play symbol will only appear on intended winning tickets as dictated by the prize structure.
- H. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLE YOUR MONEY" Instant Game prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$60.00 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$60.00 or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLE YOUR MONEY" Instant Game prize of \$1,000 or \$20,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLE YOUR MONEY" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

- 1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

- 2. delinquent in making child support payments administered or collected by the Attorney General;
 - 3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
 - 4. in default on a loan made under Chapter 52, Education Code; or
 - 5. in default on a loan guaranteed under Chapter 57, Education Code.
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "TRIPLE YOUR MONEY" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "TRIPLE YOUR MONEY" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players

whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 8,040,000 tickets in the Instant Game No. 1310. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1310 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	578,880	13.89
\$3	707,520	11.36
\$5	160,800	50.00
\$10	112,560	71.43
\$15	48,240	166.67
\$20	64,320	125.00
\$30	26,800	300.00
\$60	19,899	404.04
\$200	4,690	1,714.29
\$1,000	134	60,000.00
\$20,000	8	1,005,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.66. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1310 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1310, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201100008
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: January 3, 2011

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North Central Texas Council of Governments

Request for Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Government Code, Chapter 2254.

NCTCOG is requesting written proposals from consultant firms to develop a Corridor Master Plan and Redevelopment Strategy in the City of Arlington along Division Street, bound by Collins Street on the east and Cooper Street on the west. An analysis will be conducted of current zoning, transportation infrastructure, land use, and urban design conditions with future redevelopment opportunities that have the potential to reshape the Corridor and establish an important link between Downtown, the Entertainment District and the University of Texas at Arlington. This project will develop short- and long-term strategies that can be implemented in Arlington to create a lively corridor with a mix of uses, improved economic development opportunities and a multi-modal transportation network along the Division Street Corridor. Additionally, the project will identify recommendations for addressing the existing disjointed built environment, aging infrastructure, lack of transportation options, land uses, and the need for additional housing.

Due Date

Proposals must be received no later than 5:00 p.m., Central Daylight Time, on Friday, February 18, 2011, to Karla Weaver, AICP, Principal Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. Copies of the Request for Proposals (RFP) will be available at <http://www.nctcog.org/trans/admin/rfp> by the close of business on Friday, January 14, 2011. NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

Contract Award Procedures

The firm or individual selected to perform these activities will be recommended by a Consultant Selection Committee (CSC). The CSC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the CSC's recommendations and, if found acceptable, will issue a contract award.

Regulations

NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

TRD-201100010

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: January 3, 2011



Request for Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Government Code, Chapter 2254.

NCTCOG is requesting written proposals from System Suppliers to deliver a computerized Adaptive traffic signal control system, all necessary hardware and software and system integration services related to the successful installation and operation of the system which will include signalized intersections in the cities of Dallas, Plano and Richardson.

Due Date

Proposals must be received no later than 5:00 p.m., Central Daylight Time, on Friday, February 11, 2011, to Natalie Better, Senior Program Manager, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. Copies of the Request for Proposals (RFP) will be available at <http://www.nctcog.org/trans/admin/rfp> by the close of business on Friday, January 14, 2011.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

Contract Award Procedures

The firm or individual selected to perform these activities will be recommended by a Consultant Selection Committee (CSC). The CSC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the CSC's recommendations and, if found acceptable, will issue a contract award.

Regulations

NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to

such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

TRD-201100028

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: January 5, 2011



Texas Department of Transportation

Aviation Division - Request for Proposal for Professional Engineering Services

The City of Midlothian and the City of Waxahachie, through their agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional services firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional services as described below:

Airport Sponsor: City of Midlothian and City of Waxahachie Mid-Way Regional Airport, TxDOT CSJ No. 11ALMIDLO. Scope: services to prepare an Airport Development Plan, which includes, but is not limited to, information regarding existing and future conditions, proposed facility development to meet existing and future demand, constraints to develop, anticipated capital needs, financial considerations, management structure and options, as well as an updated Airport Layout Plan. The Airport Development Plan should be tailored to the individual needs of the airport.

There is no HUB goal. TxDOT Project Manager is Daniel Benson.

Interested firms shall utilize the Form AVN-551, titled "Aviation Planning Services Proposal". The form may be requested from TxDOT Aviation Division, 125 East 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site at <http://www.txdot.gov/business/projects/aviation.htm>. The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. A prime provider may only submit one proposal. If a prime provider submits more than one proposal, that provider will be disqualified. Proposals shall be stapled but not bound in any other fashion. PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-551, firms are encouraged to download Form AVN-551 from the TxDOT website as addressed above. Utilization of Form AVN-551 from a previous download may not be the exact same format. Form AVN-551 is a PDF Template.

Please note:

Five completed, unfolded copies of Form AVN-551 **must be received** by TxDOT Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than **February 8, 2011, 4:00 p.m.** Please mark the envelope of the forms to the attention of

Edie Stimach. Electronic facsimiles or forms sent by email will not be accepted.

The consultant selection committee will be composed of local government members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluating consultants for airport planning projects can be found at <http://www.txdot.gov/business/projects/aviation.htm>. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Edie Stimach, Grant Manager, or Daniel Benson, Project Manager, for technical questions at 1-800-68-PILOT (74568).

CRITERIA FOR EVALUATING CONSULTANTS FOR AIRPORT PLANNING PROJECTS

The following criteria will generally be used in evaluating consultants submitting proposals:

Suggested Point Values and Selection Criteria

1. 25 points. Capability to perform all of the services required for this project and professional qualifications of key personnel assigned to this project relevant to the work to be performed.

Does the consultant have the necessary resources to perform all of the services required (e.g.: planning, surveying, CAD, etc.)? Who are the professionals that will be working on this project on a daily basis and how do their qualifications and experience with general aviation airport planning projects compare with other respondents?

(Sources of information: Aviation Planning Team Form, Recent Relevant Airport Experience Form, Proposed Technical Approach Form, and possibly the Proposal Summary.)

2. 25 points. Recent experience, within the last five years, in the development of airport plans comparable to the proposed project.

Does the consultant have direct experience developing general aviation airport plans similar to those proposed for this location?

(Sources of information: Aviation Planning Team Form, Recent Relevant Airport Experience Form, and possibly the Proposal Summary.)

3. 25 points. Ability to meet the schedules and deadlines of this project and reputation for competence, timeliness, and quality of performance and work product.

Does the proposed planning team have sufficient time to devote to this project in order to meet the schedule submitted in the proposal? Is the proposed schedule realistic? Does the consultant consistently meet contractual timetables? Has the work performed for other airports been satisfactory?

(Sources of information: Aviation Planning Team Form, Recent Relevant Airport Experience Form, Project Schedule Form, possibly the Proposal Summary, and reference check.)

4. 25 points. Proposed Technical Approach and Schedule to Accomplish the Project.

Does the consultant show specific understanding and familiarity with the particular requirements of this project and how to address them? Is the consultant familiar with relevant planning guidance? Is the schedule appropriate to accomplish the project?

(Sources of information: Proposed Technical Approach Form, Proposed Schedule Form, and possibly the Proposal Summary.)

TRD-201100026

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: January 5, 2011



Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation will hold a public hearing on Tuesday, February 15, 2011 at 10:00 a.m. at the Texas Department of Transportation, 200 East Riverside Drive, Room 1A-2, in Austin, Texas to receive public comments on the January out of cycle 2011 Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2011-2014. The STIP reflects the federally funded transportation projects in the FY 2011-2014 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects for the nonattainment areas of Beaumont, Dallas-Fort Worth, El Paso, and Houston. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP and STIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.).

Section 134(j) requires an MPO to develop its TIP in cooperation with the state and affected public transit operators, to provide an opportunity for interested parties to participate in the development of the program, and further requires the TIP to be updated at least once every two years and approved by the MPO and the Governor or Governor's designee. Section 135(g) requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

A copy of the proposed January out of cycle 2011 Revisions to the FY 2011-2014 STIP will be available for review, at the time the notice of hearing is published, at each of the department's district offices, at the department's Transportation Planning and Programming Division offices located in Building 118, Second Floor, 118 East Riverside Drive, Austin, Texas, and on the department's website at:

www.txdot.gov

Persons wishing to review the January out of cycle 2011 Revisions to the FY 2011-2014 STIP may do so online or contact the Transportation Planning and Programming Division at (512) 486-5033.

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division, at (512) 486-5033 not later than Monday, February 14, 2011, or they may register at the hearing location beginning at 9:00 a.m. on the day of the hearing. Speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, orga-

nizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs or who plan to attend the hearing may contact the Government and Public Affairs Division, at 125 East 11th Street, Austin, Texas 78701-2483, (512) 463-9957. Requests should be made no later than three days prior to the hearing. Every reasonable effort will be made to accommodate the needs.

Further information on the FY 2011-2014 STIP may be obtained from Lori Morel, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704, (512) 486-5033. Interested parties who are unable to attend the hearing may submit comments

to James L. Randall, P.E., Director, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by Monday, February 28, 2011 at 4:00 p.m.

TRD-201100027

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: January 5, 2011



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

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

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

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

Review of Agency Rules - notices of state agency rules review.

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

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 36 (2011) is cited as follows: 36 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

40 TAC §3.704.....950 (P)