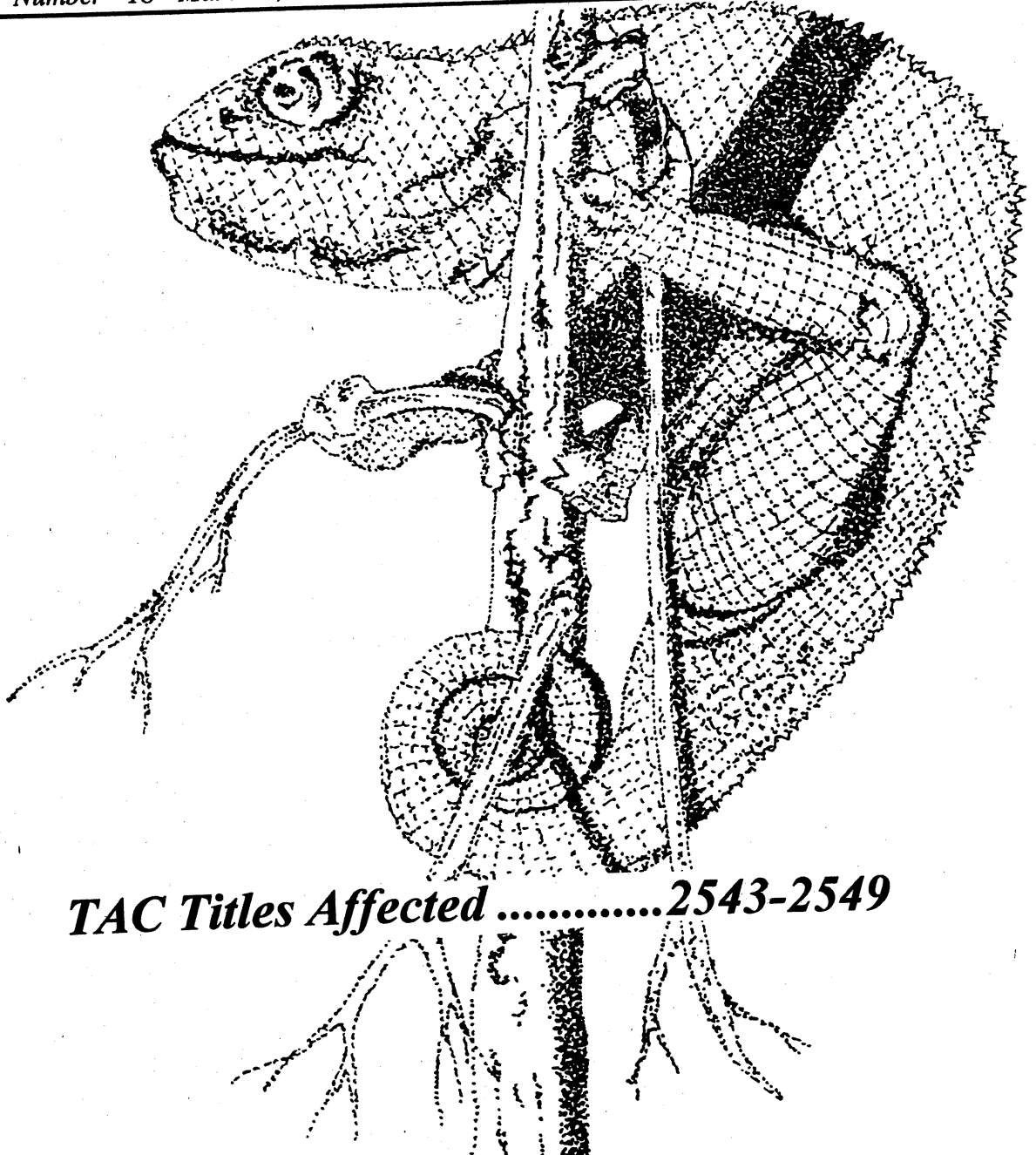

TEXAS REGISTER

Volume 22 Number 18 March 7, 1997

Page 2471-2549



TAC Titles Affected2543-2549

This month's front cover artwork:

Artist: Brian Flanagan

11th Grade

Northbrook Sr. High, SBISD

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Name: Gustavo Granados

Grade: 10

School: Skyline High School, Dallas Independent School District

9-10-96



OFFICE OF THE ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, and open records decisions are summarized for publication in the *Texas Register*. The attorney general responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the attorney general unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

Request for Opinions

ID# 39375 Request from the Honorable James M. Kuboviak, Brazos County, Attorney, 300 East 26th Street, Suite 325, Bryan, Texas 77803, regarding whether a bail bondsman may change a business name without applying for a new license, and related questions.

ID# 39410 Request from the Honorable John W. Smith, District Attorney, Ector County, Room 305, North Grant Street, Odessa, Texas 79761, regarding whether a county may reinstate in midyear two former positions which were omitted from the current budget.

ID# 39380 Request from the Honorable Al Edwards Chair, Committee on Rules and Regulations, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, regarding validity of a rider of the 1995-97 General Appropriations Act that permits the expenditure of certain funds only by contract with the Texas Association of Developing Colleges.

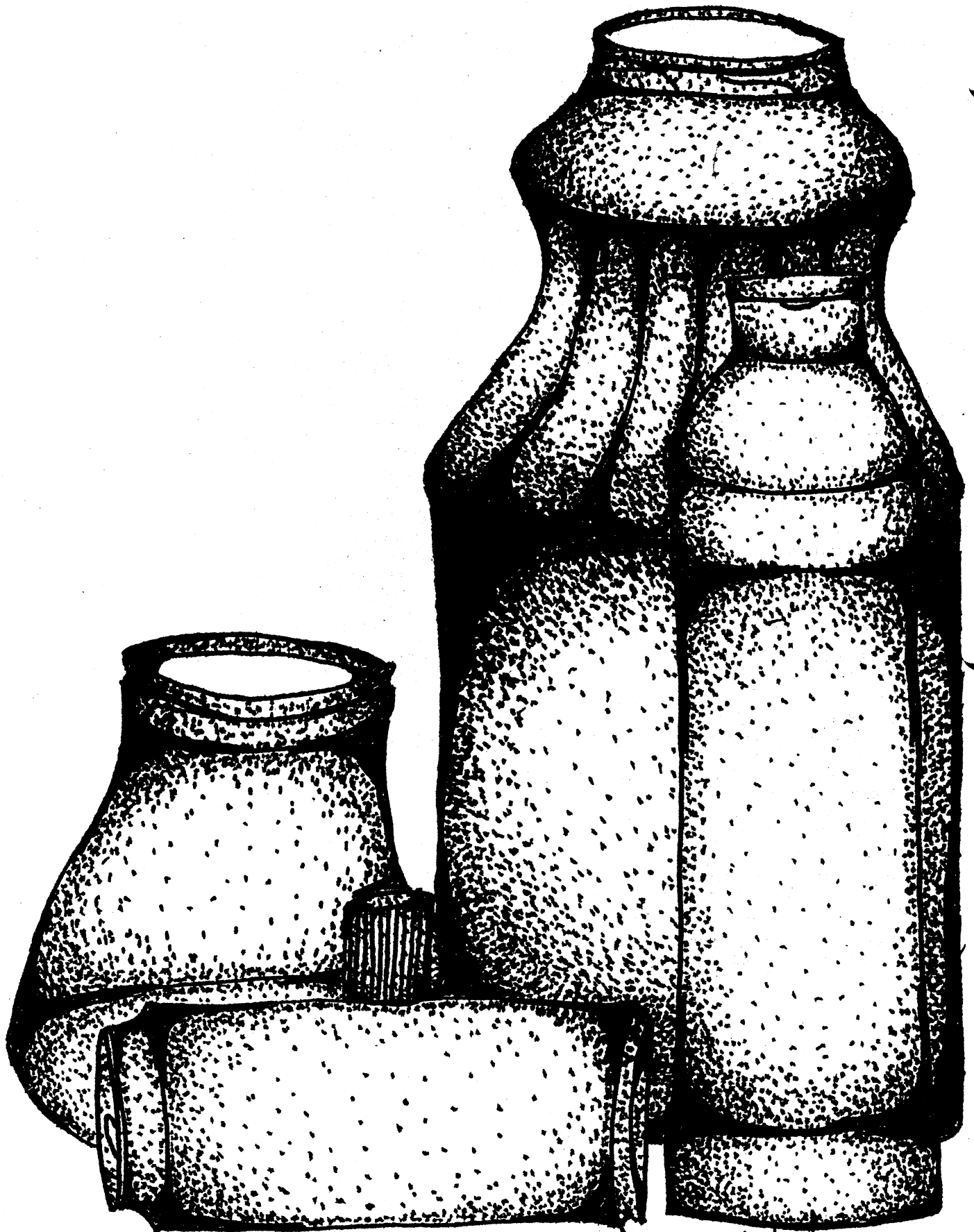
ID# 39382 Request from the Honorable Jose Rodriguez, El Paso County, Attorney, County Courthouse, 500 East San Antonio, Room

203, El Paso, Texas 79901, regarding Authority of a school district to expend funds in the defense of a district employee in a criminal proceeding.

ID# 39387 Request from the Honorable Ken Armbrister, Chair, Committee on State Affairs, Texas Senate, P.O. Box 12068, Austin, Texas 78711, regarding reconsideration of Letter Opinion 96-122 (1996).

ID# 39388 Request from the Honorable Mark Stiles, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768, regarding authority of a commissioners court to modify the budget of a juvenile probation department.

TRD-9702043



Name: Melonie Hopson

Grade: 12

School: Skyline High School, Dallas Independent School District

A handwritten signature in black ink, appearing to read 'Melonie Hopson', located in the bottom right corner of the page.

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Request

AOR-399 If a corporation is conducting a contest or competition among groups of employees with the goal of increasing participation in its Political Action Committee, can the corporation contribute corporate funds to an employee activity fund for use by the group of employees that wins the competition?

Issued in Austin, Texas, on February 28, 1997.

TRD-9702878

Tom Harrison

Executive Director

Texas Ethics Commission

Filed: February 28, 1997

Ethics Advisory Opinions

EAO-358 (AOR-393) Whether an employee of the Texas Legislature may be the owner of a business that provides election support services to candidates for elective office.

SUMMARY Whether a legislative employee may engage in outside business activity depends on the specific nature of the outside business activity. Although there is no absolute prohibition on outside employment by legislative employees in the laws interpreted by the Ethics Commission, any legislative employee considering outside employment should review the provisions mentioned in this opinion to make sure that the outside employment is permissible.

EAO-359 (AOR-396) Whether a legislator may use political contributions to pay or reimburse expenditures incurred by a staff member who maintains a residence in Austin to lease and furnish an apartment in the legislator's district.

SUMMARY A legislator may use political contributions to pay or reimburse expenditures incurred by a staff member who normally

resides in Austin to lease and furnish a second residence in the legislator's district if the legislator has requested that the staff member spend time in the legislator's district during the legislative session to maintain contact with the legislator's constituents. In the situation described in this opinion, the legislator's payment of those expenses is not a prohibited "benefit" to the staff member.

EAO-360 (AOR-397) Clarification of Ethics Advisory Opinion Number 329 concerning the contribution of legal services rendered in connection with a lawsuit brought under Election Code, §253.131.

SUMMARY A contribution of personal services to a candidate or officeholder is not reportable because Election Code, §254.033 specifically excepts contributions of personal services from the reporting requirements. The Election Code does not, however, except from the reporting requirements contributions in the form of payment of expenditures made in connection with rendering personal services. Therefore, such payments are reportable.

EAO-361 (AOR-398) Whether a regulatory agency is required to comply with a former employee's request to provide a list of "matters" that the former employee worked on during his or her tenure at the agency.

SUMMARY The Government Code, Chapter 572 does not place an obligation on a state agency to provide a former employee with a list of matters in which the former employee participated.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702877

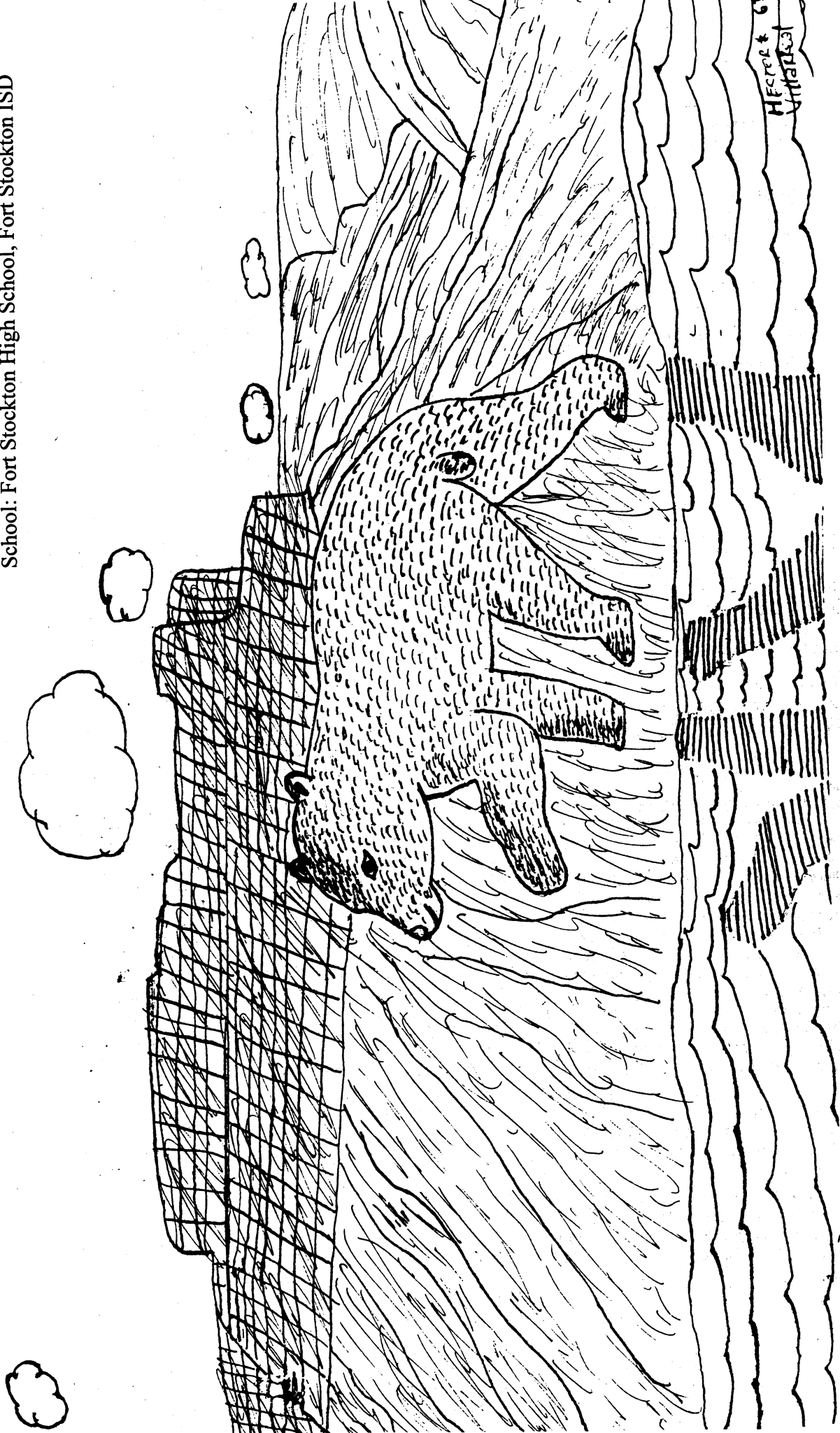
Tom Harrison

Executive Director

Texas Ethics Commission

Filed: February 28, 1997

Name: Hector Villarreal
Grade: 11
School: Fort Stockton High School, Fort Stockton ISD



Hector 6
Villarreal

PROPOSED RULES

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

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

TITLE 25. HEALTH SERVICES

Part XVI. Texas Health Care Information Council

Chapter 1301. Health Care Information

Collection and Reporting of Health Plan Employer Data and Information Set (HEDIS) from Health Maintenance Organizations (HMOs)

25 TAC §§1301.31-1301.35

The Texas Health Care Information Council proposes new §§1301.31-1301.35, concerning the collection and reporting of Health Plan Employer Data and Information Set (HEDIS) from health maintenance organizations (HMOs) in the State of Texas. Specifically, the sections define terms used in the collection and reporting of HEDIS data; establish procedures for the collection and reporting of HEDIS data; establish procedures for the verification of HEDIS data; and establish civil penalties for failure to comply. These new rules will facilitate implementation of the statewide health care data collection system mandated by the Legislature in House Bill (HB) Number 1048, of the 74th Legislature, codified in Title 2, Health and Safety Code, §§108.1-108.15, to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care.

The fiscal note is based upon information provided by the National Committee for Quality Assurance (NCQA), the Maryland Health Care Access and Cost Commission, New York State Department of Health, North Central Texas HEDIS Coalition, and Kaiser Permanente.

The Texas Health Care Information Council has determined that for the first five-year period the sections are in effect, there will be fiscal implications. The costs to state government may range up to \$300,000 per year for collection, analysis, and

dissemination of HEDIS data. A portion of these costs may be recaptured through revenues generated by user fees for products produced through implementation of these rules. The revenues to be generated through user fees are expected to be positive but as yet are undetermined. There will be no fiscal implications for local governments except to the extent that local governments operate HMOs that are required to submit data per these rules.

The Texas Health Care Information Council has also determined that for each year of the first five years the sections are in effect, the public benefits anticipated as a result of enforcing and administering the sections will be public access to HEDIS from HMOs regarding health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care; to provide an information and data source for providers, consumers, purchasers, and policy makers alike; to promote informed decision making in providing, utilizing, and purchasing health care and for developing and implementing health care policy throughout the state; and to provide a means of benchmarking throughout the state to promote continuous quality improvement by providers to insure good quality, accessible health care to the citizens of Texas.

There will be additional costs to HMOs as they will be required to provide the data to the Texas Health Care Information Council and provide verification of the data through use of an independent auditor. For HMOs currently reporting HEDIS, the principal costs will involve the transition from HEDIS 2.5 to HEDIS 3.0. For HMOs not currently reporting HEDIS, the cost may range from \$385,000 to \$400,000 for the first year. The major costs will involve initial procurement of the requisite computer hardware and software, recruitment, selection, hiring and training of additional personnel, and additional consumables. The annual costs in subsequent years are estimated to be the same or less.

Additional costs for all HMOs will result from the requirement for verification of HEDIS data. For HMOs that belong to coalitions or that have demonstrated experience in reporting

HEDIS, the costs have ranged from \$3,500 to \$9,000 annually. For independent HMOs that do not belong to coalitions, or that have not demonstrated experience in reporting HEDIS, the costs have ranged up to \$23,000 annually when using external vendors. Costs internal to the HMO will be in addition to these amounts. These costs have been based on past NCQA requirements; future requirements may increase these figures.

There will be additional costs in accomplishing and reporting member satisfaction surveys. These costs are expected to range from \$5,000 to \$8,000 annually. Few, if any of the HMOs required to submit data under these rules can be classified as small businesses. The potential for these increased costs have been mitigated by utilizing formats and processes currently in existence and through integration and consolidation with other health care data systems. HMOs which have not been reporting HEDIS in the past will incur the greatest costs.

There is no anticipated cost to individuals who may be required to comply with the sections as proposed. Proposed rules for release of HEDIS data will be published at a later date. The council intends to publish summaries of these data and make them available to consumers at no charge.

Comments on the proposed rules may be submitted to Nelda P. Wray, M.D., M.P.H., Chairperson, Texas Health Care Information Council, 4900 North Lamar, OOL-3407, Austin, Texas, 78751-2399, (512) 424-6492; Fax (512) 424-6491. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*. In addition, a public hearing on the proposed sections will be held on Thursday, April 10, 1997 in Austin, Texas at 4900 North Lamar. The Council seeks comments on the proposed rule's contents from all interested parties.

A previous version of this proposed rule was published in the October 15, 1996, issue of the *Texas Register*, (21 TexReg 10161-10164). A public hearing was held on November 25, 1996, in Austin at which five people presented oral testimony. During the 30 day comment period following publication of the proposed rule, written comments were received from 13 individuals and organizations. Members of the council have also met informally with representatives of affected interest groups to receive additional input.

Individuals and organizations presenting testimony at the public hearing were: Victor A. Diaz; Scott McKenna representing Unicare Life and Health Insurance Company; Lisa McGiffert representing Consumers Union; and Susan Polley representing NYLCare Health Plans and the North Central Texas HEDIS Coalition. The Non-hospital Data Committee Chair, Tim Garson, read a letter from Dresdene Flynn-White, a council member, representing Kaiser Permanente.

Individuals and organizations submitting written comments during the comment period were: John Arnold (CompDent Corporation); Shelly Birdsong (North Central Texas HEDIS Coalition); Debra C. Eccles (Spectera Dental, Inc.); Hugh Lamensdorf and William Gamel (Texas Medical Association); Richard J. Hausner, Lewis W. Foxhall and Alan Skolnick (Harris County Medical Society); Elizabeth N. Sjoberg (Texas Hospital Association); William A. Gillespie (Kaiser Permanente); C.F. LeMaistre (Texas Alliance of Nonprofit Healthcare); Rod Bordelon (State of Texas Office of Public Insurance Counsel); Patti J. Patterson

(State of Texas Department of Health); Dresdene Flynn-White (Kaiser Permanente); Consumers Union; and Thomas J. Bond (Akin, Gump, Strauss, Hauer & Feld, L.L.P., Attorneys At Law, on behalf of their client, the Texas Health Maintenance Organization Association).

The full council discussed the comments and responses to the comments at its January 27, 1997 meeting in Austin. The full council voted on the responses to the comments and associated changes to the proposed rule at its meeting on February 24, 1997 in Austin. The council determined that sufficient modifications to the proposed rule were required that it would be inappropriate to move to final adoption of a rule without withdrawing the initial proposed rule and publishing a revised proposed rule for public review and comment. Therefore, at the January 27, 1997 meeting, the council formally withdrew the October 15 proposed rule from further consideration.

In order to document the council's decisions regarding the development of this rule, it has prepared a response to the comments received on the October 15 proposed rule and incorporates them into this preamble. Section references in this response are to the October 15 version of the proposed rule.

Comments Related to Specific Sections of the October 15 Proposed Rule

§1301.31. Purpose.

No comments.

§1301.32. Definitions.

The inclusion of Approved Nonprofit Health Corporations (ANHCs) in the definition of an HMO was suggested. Dianne Longley, Texas Department of Insurance, was contacted for guidance. In her reply, Ms. Longley states, "Because the council's enabling legislation specifically defines an HMO as 'an organization as defined in Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code),' I do not believe the council has the authority to expand this definition to include ANHCs. However, the ANHC rules adopted by this Department last year require ANHCs to comply with all insurance laws and regulations which apply to HMOs. Thus, if HMOs are required to provide HEDIS data to the council, then ANHCs are also required to provide data. In addition, the rules also specifically state that when HMOs enter into contracts with ANHCs, the ANHC is required to provide the primary HMO with the data necessary for the HMO to comply with reporting requirements of the council." Furthermore, she states, "If the council is concerned that there might still be some problem with compliance from ANHCs, I would suggest recommending to Representative Maxey that §108.009 (o) be amended to add ANHCs to the council's enabling legislation." The council suggested that there might be a way to write the rule so that it is inclusive of ANHCs or any other groups who are not spelled out in the definition of an HMO, but who must comply with all insurance laws and regulations which apply to HMOs, i.e., who must provide HEDIS data to the council. Cue Boykin was contacted for legal advice.

At the January 27, 1997 council meeting, legal counsel reported that the law, as stated, excludes ANHCs and any efforts to change the law to include ANHCs would require a legislative solution. The council accepted his advice.

It was suggested that the terms, *Report*, *Reporting Set Measures*, *Testing Set Measures*, and *Service Area* be added to the list of definitions. The council disagrees that the term, *Report* be defined in the rule. However, the council agrees with the intent of the criticism and will insure that the language regarding the "reporting" of HEDIS data is explicit. The council agrees that the terms, *Reporting Set Measures*, *Testing Set Measures*, and *Service Area* be defined in the rule and will revise §1301.32. Definitions to include the following definitions:

Reporting Set Measures - Those measures specified as "Reporting Set Measures" in the HEDIS 3.0 Manual and specified as such during the year in which the HEDIS data is collected.

Testing Set Measures - Those measures specified as "Testing Set Measures" in the HEDIS 3.0 Manual and specified as such during the year in which the HEDIS data is collected.

Service Area - The area in which the HMO is licensed to serve its population.

Following discussion of the above definition changes at the January 27 council meeting, Ron Luke suggested that the definition of "executive director" be changed to be consistent with the definition in the hospital discharge data rule. The council agreed and will change the definition to read:

Executive Director - The chief administrative officer of the council, or, in the event the council is without an executive director, the person designated by the chairperson of the council to perform the functions and exercise the authority of the executive director.

§1301.33. Reporting of Health Plan Employer Data and Information Set (HEDIS) by Health Maintenance Organizations (HMOs).

The council recommends that HMOs report HEDIS data, at a minimum, by service area in which they are licensed. If a service area does not meet required performance measure specifications, the HMO shall request an exemption from reporting as outlined in §1301.33 (e) and (f). The council recognizes that there may be multiple sites within one service area. If the HMO chooses to provide site-specific data, the council will accept that data. Obviously, if any site within a service area does not have sufficient enrollment to meet required performance measure specifications, then those measures shall be reported as a part of the collective service area.

The council received several suggestions for how large a plan should be before an HMO is required to report HEDIS data. A common suggestion was 25,000 members. The council contacted the National Committee for Quality Assurance (NCQA) for guidance on this issue. They noted that because HMOs vary greatly by the type of members they enroll, e.g., Medicaid (large population of children) and Medicare (large population over 65), NCQA does not establish a minimum enrollment before an HMO should report HEDIS data. Following NCQA's recommendation, the council rejects the suggestion that a minimum enrollment be specified and used as an exclusion for HMOs to report HEDIS data. Any HMOs with insufficient enrollment to meet required performance measure specifications, shall request an exemption from reporting as outlined in §1301.33 (e) and (f).

Concern was expressed with the clarity of the rule to address what HEDIS data shall be collected. Since the measures that must be reported are not specified by the council until November 15th of the year in which the data is collected, the council believes that failure to have systems in place to facilitate the collection of the full HEDIS data set may result in the inability to report the specified data to the council. The council will revise this subsection to make it clear that a system to facilitate the collection of the full HEDIS data set must be in place to report the specified data to the council. Furthermore, the term "Collection" will be added to the title of §1301.33.

The exclusion of a single service HMO (e.g., dental, optical) from reporting HEDIS data was suggested. The council does not agree. The council believes that single service HMOs do contribute to the overall promotion of good quality health care and as such, recommends that single service HMOs be required to report HEDIS data that is applicable to the services they provide. Single service HMOs shall notify the council prior to November 15th of the year in which the data is collected, to address which measures are applicable to the services they provide. The council believes the reporting of these limited measures will not inflict a substantial financial burden on single service HMOs.

It was suggested that the council require that HMOs report a subset of HEDIS data rather than require the full HEDIS data set. The council agrees with this suggestion and will revise subsection (b). The council wishes to emphasize that its interpretation of a "subset" will most likely be several measures, not merely 2-3 measures. In addition, this subsection has been revised to clarify an HMO's requirements for reporting of HEDIS data for any specific subpopulation, e.g., Medicare and Medicaid. Subsection (b) will now read:

HMOs shall report HEDIS data, at a minimum, by service areas in which they are licensed. Data to be reported shall be a subset of the "Reporting Set Measures" (i.e., this excludes data specified as "Testing Set Measures") as specified by the council by November 15th of the year in which the data is collected. Reporting by any specific subpopulation (e.g., Medicare, Medicaid) will be specified by the council by November 15th of the year in which the data is collected.

It was suggested that HMOs be required to complete member satisfaction surveys and report on members currently enrolled by July 1, 1997 so that consumers would have at least some information to evaluate HMO performance this year. Furthermore, it was suggested that the council require HMOs, which report data to employers in 1997, to file this data with the council. The council is sensitive to and understands the importance of providing information to consumers this year; however, given this year's time constraints on HMOs to produce valid patient satisfaction survey results, the council will require HMOs to complete Annual Member Health Care Surveys on their Medicare population only. Because the deadline for reporting data on this population is not as time-sensitive for consumers, the deadline will be extended to October 1, 1997. The council rejects the suggestion requiring that HMOs which report data to employers in 1997, file this same data with the council. The council believes that this incomplete data does not appropriately address all sites and may unfairly influence consumers.

As stated in the proposed rule, the council shall specify, by November 15th of the year in which the data is collected, HEDIS measures that shall be reported to the council by July 1st of the following year. Suggestions were received recommending: which measures to report (including member satisfaction surveys); which selection criteria to use (i.e., measures that are available, reliable, have common meaning and are reasonably obtainable, and that meet consumer needs and interests as well as employer concerns); and the use of a standard HEDIS data collection instrument and process, developed in collaboration with the HMO industry and physicians. Standardization will result not only in administrative simplification for physicians and health plans, but contribute to a more reliable data base. The council will consider all of the above recommendations when determining which specific measures shall be reported. Each year, the council, in consultation with the HMO industry, physicians and consumers, shall delineate a number of HEDIS measures that will provide patients, providers, and employers meaningful, comparable information on health plan performance. The council accepts these recommendations. Furthermore, the council recognizes that HMOs may not have a system in place to collect the full data set during 1997; therefore, the council will be sensitive to this when choosing the 1997 reporting measures.

It was suggested to place the burden on the individual HMOs to demonstrate why they cannot meet reporting requirements on an annual basis. This is preferable to placing the burden on the council's executive director to determine when the exemption should be revoked. The council accepts this recommendation and believes that subsection (e) should be changed to specify "on an annual basis."

A suggestion was received to change "hospital" to "HMO" in subsections (f) and (f)(1). The council agrees with the suggestion and will make the noted changes.

§1301.34. Verification of Data.

It was suggested to clarify which HEDIS measures reported shall be verified. The council accepts this suggestion and recommends that subsection (a) be changed to: "The entire subset of HEDIS data, specified on November 15th of the year in which the data is collected, and reported by the HMO to the council by July 1st of the following year, shall be verified ." Since the council is requiring that HMOs only report a subset of HEDIS data, we feel justified in requiring verification of the entire subset of HEDIS data that is reported.

It was suggested that the council move the deadline for reporting verified HEDIS data from July 1st to a later date. The council does not agree. The July 1st date will not be changed since the council is recommending that the reporting of the full data set be changed to only a subset, and hence the council believes that the burden on HMOs to produce the report by the deadline is reduced.

It was suggested that the council allow for a trial stage in 1997, and not require that the HEDIS Reporting Set Measures be verified when reported to the council by July 1, 1998. The council does not accept this suggestion. The council believes that to appropriately inform consumers, the entire subset of HEDIS Reporting Set Measures specified shall be verified by July 1, 1998.

§1301.35. Civil Penalty.

It was suggested to add the caveat: "No civil penalties, however, will be assessed during the first two years following adoption of these rules" to this section which currently reads, "Failure to timely report verified HEDIS data is punishable by a fine pursuant to the Health and Safety Code, §108.014." The council does not accept the recommendation to waive all civil penalties during the first two years. Nonetheless, the council is certainly sensitive to the need to give appropriate consideration to the difficulties that may occur with the reporting of HEDIS data during the initial year.

A suggestion was received to delete the "." after the parenthetical phrase in subsection (d). The council agrees with the suggestion and will make the noted change.

Comments Not Related to Specific Sections of the October 15 Proposed Rule

It was requested that the phrase "reporting of HEDIS from HMOs" be clarified to reflect that this does not imply the release of HEDIS data to the public. They noted that this language was somewhat ambiguous and seemed to conflict with other language in the preamble which states that "proposed rules for the release of HEDIS data will be published at a later date." The council accepts this criticism and will revise the preamble to reflect that the rule specifically addresses the reporting of HEDIS data to the council and not the release of HEDIS data to the public.

A suggestion was received that physician and patient confidentiality safeguards, stipulated within H.B. 1048, must be applied to all HEDIS information collected by the council. The council agrees.

The new sections are proposed under the Health and Safety Code, §§108.6-108.13, which provides the Texas Health Care Information Council with the authority to establish rules to implement and administer a state-wide health data collection system.

These new sections affect Health and Safety Code, Chapter 108.

§1301.31. Purpose.

The purpose of these sections is to establish a data collection and reporting system for health maintenance organizations (HMOs) in the State of Texas.

§1301.32. Definitions.

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

Council - The Texas Health Care Information Council.

Executive director - The chief administrative officer of the council, or, in the event the council is without an executive director, the person designated by the chairperson of the council to perform the functions and exercise the authority of the executive director.

HEDIS - The Health Plan Employer Data and Information Set, Version 3.0, published by the National Committee for Quality Assurance. A copy is on file and available for review during normal working hours at the Texas Health Care Information Council, 4900 North Lamar, OOL-3407, Austin, Texas 78751. Copies may be

purchased from the National Committee for Quality Assurance, 2000 L Street, N.W., Suite 500, Washington, D.C. 20036.

HEDIS data - The information the health maintenance organization collects and reports to the council in accordance with the provisions of this chapter.

HMO- A health maintenance organization as defined in Texas Health Maintenance Organization Act, §2 (Texas Insurance Code, Article 20A.02).

NCQA - The National Committee for Quality Assurance.

Reporting set measures - Those measures specified as "Reporting Set Measures" in the HEDIS 3.0 Manual and specified as such during the year in which the HEDIS data is collected.

Service area- The area in which the HMO is licensed to serve its population.

Testing set measures - Those measures specified as "Testing Set Measures" in the HEDIS 3.0 Manual and specified as such during the year in which the HEDIS data is collected.

§1301.33. Collection and Reporting of Health Plan Employer Data and Information Set (HEDIS) Data by Health Maintenance Organizations (HMOs).

(a) Any health maintenance organization (HMO) operating in the State of Texas on December 1, 1996, and on that date each year thereafter, shall have a system in place to collect the full HEDIS data set, and shall be required to report HEDIS data, collected during the next calendar year. The council shall update this rule as necessary by November 15th of each year, to reflect changes in legislation, current version of HEDIS, and other appropriate mandates.

(b) HMOs shall report HEDIS data, at a minimum, by service areas in which they are licensed. Data to be reported shall be a subset of the "Reporting Set Measures" (i.e., this excludes data specified as "Testing Set Measures"), as specified by the council by November 15th of the year in which the data is collected. Reporting by any specific subpopulation (e.g., Medicare, Medicaid) will be specified by the council by November 15th of the year in which the data is collected.

(c) The HEDIS data specified by the council on November 15th of the year in which the data is collected shall be reported by the HMO to the council by July 1st of the following year, and shall include HEDIS data collected from January 1st through December 31st.

(d) HEDIS data shall be reported to the council or its agents at physical or telephonic addresses specified by the executive director. The executive director shall notify all HMOs in writing and by publication in the *Texas Register* at least 30 days before any change in the address.

(e) Any HMO which judges that it cannot meet required performance measure specifications due to either low enrollment (such that sample size requirements are not met) or short time of existence (such that length of time requirements are not met) shall provide the council with a narrative that documents the reason for not reporting the data for that performance measure. Single service HMOs shall notify the council to address which measures are applicable to the services they provide. All requests for exemptions from reporting data for any performance area(s) required by this chapter shall be submitted by the HMO on an annual basis, prior

to November 15th of the year in which the data is collected, and processed by the executive director using the following procedures.

(1) An HMO requesting an exemption from reporting any required performance measure prescribed by this chapter shall submit to the executive director a letter requesting the exemption and provide all information necessary to establish the HMO's entitlement to the exemption. The exemption request shall be signed by the chief executive officer of the HMO who shall certify that all information contained in the request is true and correct.

(2) The executive director shall review the request for exemption. The executive director may request additional information from the HMO relevant to the exemption request. Within 30 days of receipt of a request for exemption, the executive director shall issue a letter granting or denying the exemption. If denied, the letter shall state in detail the reasons for the denial. The executive director shall notify council members of exemptions requested and the disposition of these requests for information purposes only.

(3) If the executive director denies an exemption request, the HMO may resubmit the request along with any additional information or analysis the HMO deems relevant to the executive director. The resubmission shall be considered in the same manner as the initial submission.

(4) If the executive director denies the resubmitted exemption request, the HMO may appeal the executive director's decision to the council. In making its determination, the council will consider only those facts and issues which have been previously presented to the executive director. The council will decide exemption appeals by majority vote of members present.

(f) To provide consumers with some information to evaluate HMO performance during 1997, HMOs shall complete Annual Member Health Care Surveys on their Medicare populations only, and report the survey findings to the council by October 1, 1997.

§1301.34. Verification of Data.

(a) The entire subset of HEDIS data specified by the council on November 15th of the year in which the data is collected, and reported by the HMO to the council by July 1st of the following year, shall be verified.

(b) HEDIS data shall be verified by HMOs at their own expense.

(c) Verification of HEDIS data shall be by an independent auditor using guidelines as developed by the National Committee for Quality Assurance (NCQA) in effect on November 15th of the year in which the data is collected. If no guidelines have been released by NCQA, the data will be verified in accordance with auditing procedures as specified by the council. These auditing procedures shall be specified by the council by November 15th of the year in which the data is collected.

§1301.35. Civil Penalty.

Failure to timely report verified HEDIS data is punishable by a fine pursuant to the Health and Safety Code, §108.014.

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

Issued in Austin, Texas, on February 26, 1997.

TRD-9702728

Jim Loyd
Director of Program Planning
Texas Health Care Information Council
Earliest possible date of adoption: April 7, 1997
For further information, please call: (512) 424-6492

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**TITLE 31. NATURAL RESOURCES AND
CONSERVATION**

Part X. Texas Water Development Board

Chapter 353. Introductory Provisions

General Provisions

31 TAC §353.11

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

The Texas Water Development Board (board) proposes the repeal of §353.11 and adoption of new §353.11 concerning charges for public records. The new section establishes a fee schedule consistent with the schedule of charges for providing copies of public information set forth by the General Services Commission to implement the provisions of Government Code, Chapter 552, with respect to the cost of providing public information, and the charges that state agencies and other governmental bodies may set to recover costs.

Pamela Ansbury, the Director of Accounting and Finance, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the new section.

Ms. Ansbury also has determined that for each year of the first five years that the new section is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the more consistent implementation of the Public Information Act throughout state government. There is no anticipated cost to small businesses. There is no anticipated cost to individuals who are required to comply with this amendment as proposed.

Comments on the proposal may be submitted within 30 days of publication to Suewan Johnson, Attorney, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, (512) 463-8249.

The repeal is proposed pursuant to Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out its powers and duties, and Chapter 428, Acts, 73rd Legislature, 1993, which requires state agencies to adopt rules that specify the charges that the agency will make for copies of public records.

The following statutes are affected by the proposed repeal and new section: Texas Water Code §6.163, Government Code

§§552.261, 552.2611, 552.262. §353.11. Charges for Public Records.

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

Issued in Austin, Texas, on February 26, 1997.

TRD-9702744
Craig D. Pedersen
Executive Administrator
Texas Water Development Board
Proposed date of adoption: April 17, 1997
For further information, please call: (512) 463-7981

◆ ◆ ◆
General Provisions

31 TAC §353.11

The new section is proposed pursuant to Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out its powers and duties, and Chapter 428, Acts, 73rd Legislature, 1993, which requires state agencies to adopt rules that specify the charges that the agency will make for copies of public records.

§353.11. Charges for Public Records.

The board will charge for reproduction of public records in accordance with the General Services Commission's rules concerning Costs of Copies for Public Information (1 TAC §§111.61-111.70) and as follows:

- (1) Local fax is \$.10 per page;
- (2) Long distance fax, same area code, is \$.50 per page;
- (3) Long distance fax, different area code, is \$1.00 per page;
- (4) Certification of copies will add \$1.00 to the total invoice;
- (5) CD Rom is actual cost of disk plus computer resource charge (mid-size) plus programming personnel charge; and
- (6) Color copy is \$1.00 per page

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

Issued in Austin, Texas, on February 26, 1997.

TRD-9702743
Craig D. Pedersen
Executive Administrator
Texas Water Development Board
Proposed date of adoption: April 17, 1997
For further information, please call: (512) 463-7981

WITHDRAWN RULES

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

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 107. Dental Board Procedures

22 TAC §107.102

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption the proposed amended §107.102, which appeared in the December 24, 1996, issue of the *Texas Register* (22 TexReg 12353).

Issued in Austin, Texas, on February 24, 1997.

TRD-9702718

Douglas A. Beran

Executive Director

State Board of Dental Examiners

Effective date: February 25, 1997

For further information, please call: (512) 463-6400

Chapter 109. Conduct

22 TAC §109.144

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption the proposed amended §109.144, which appeared in the December 24, 1996, issue of the *Texas Register* (22 TexReg 12354).

Issued in Austin, Texas, on February 24, 1997.

TRD-9702719

Douglas A. Beran

Executive Director

State Board of Dental Examiners

Effective date: February 25, 1997

For further information, please call: (512) 463-6400

Name: Ricky Celaya
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Fort Stockton ISD

ADOPTED RULES

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

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

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 103. Dental Hygiene Licensure

22 TAC §103.3

The State Board of Dental Examiners adopts new §103.3, concerning licensure of graduates of foreign and non-accredited dental hygiene schools or programs with changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10487).

The new rule establishes that graduates of foreign and non-accredited dental hygiene schools will be able to practice dental hygiene as mandated by the Texas Legislature through the Dental Practice Act.

Article 4543a §2, a new provision in the Dental Practice Act, provides that the Board "...shall grant a license to a dentist or dental hygienist who has not graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation..." Even though the statute is new, the process insofar as it concerns dentists is not new. The board prior to 1995 had begun to license graduates of unaccredited dental schools, when educational equivalency of the dental school was determined by the applicant successfully completing a qualifying clinical examination administered by an accredited Texas dental school, §101.1. The new statutory provision requires licensure if the applicant has practiced for five years, has not been disciplined, has passed all examinations required by the board and the board through a process set forth in rule has determined educational equivalency of the school that has graduated the applicant.

The primary purpose for this rule was to spell out the procedure by which the board would determine educational equivalency of an unaccredited school that had graduated an applicant for licensure as a dental hygienist. Beginning in the summer of 1995, the board asked that the Dental Hygiene Advisory Committee to look into whether the Texas dental hygiene schools could construct a qualifying clinical examination for dental hygienists similar to the process developed for dentists. The Dental Hygiene Advisory Committee reported back to the board that none of the dental hygiene educators were willing to conduct such examinations as they were not feasible for hygienists. The board then appointed an ad hoc Joint Committee made up of the members of the Dental Hygiene

Advisory Committee and the members of the Board's standing credentials committee and examination committee. The joint committee after discussion was presented with a suggestion from the dental hygiene education community that educational equivalency could be determined by requiring graduation from a program of higher education of at least two academic years of full time study including specific course requirements.

The rule was proposed by the joint committee and the board approved it for publication. In addition to describing a method to determine educational equivalency the rule included the other statutory requirements for licensure of graduates of unaccredited dental hygiene schools.

Oral comments were received at hearing held December 6, 1996, and written comments were filed. Public comments were made by and on behalf of the following organizations: Dental Hygiene Advisory Committee; Texas Dental Hygienists' Association; Texas Dental Association; Texas Dental Hygiene Directors' Association; Texas Women's University; Tarrant County Jr. College; Lamar University; Wharton County Jr. College; Tyler Jr. College; Baylor College of Dentistry; University of Texas Medical Branch; and Temple College. Four individuals made oral comments. In addition there were 411 written comments received concerning the rule, including the organizations who appeared at hearing. Further, written comments were received from Lt. Governor Bob Bullock, who simply forwarded to the board a letter from an individual, Representative Delisi who opined that the proposed rule did not follow the legislative intent set out in Senate Bill 670, which was unsuccessfully proposed during the 1993 legislative session and Representative Counts, who also made reference to Senate Bill 673 and the procedures whereby rules affecting licensing and education of dental hygienists are adopted, as set forth in Senate Bill 18 which was adopted during the 1995 legislative session.

The Dental Hygiene Advisory Committee both in writing and orally proposed these changes:

(1) the title of the rule be amended to drop the words "and non-accredited"; (2) add five additional course requirements; and (3) add a provision that an applicant who fails a qualifying examination three times be required to attend an accredited school for two years.

The Texas Dental Hygienists' Association both in writing and orally proposed these changes:

(1) change the title of the rule to exactly match the second part of the title of Article 4545a, so that it reads: "Licensing of Foreign-Trained Dentists"; (2) insert the word "foreign" between the words "a" and "dental" in the first sentence of the rule text and again in the first line of sub-paragraph (2).

(3) add the following Commission on Dental Accreditation required courses to sub-paragraph (2)(C) (ii): immunology, preventive counseling, written and oral communications, legal and ethical aspects of dental hygiene practice, and management of patients with special needs; (4) modify the wording at the beginning of (2)(C)(ii) in the following manner: "the program must consist, at a minimum, of instruction in the following subjects, and any other subjects deemed to be required for accreditation by the Committee on Dental Accreditation of the American Dental Association"; (5) add before the period at the end of sub-paragraph (2) (C) (ii) to create a new (iii): "; and (iii) the transcript, course catalogue, or other appropriate material has been reviewed by a panel of at least three directors of dental hygiene programs located in Texas and accredited by the Committee on Dental Accreditation of the American Dental Association, and they have determined that the equivalency requirements of this Section have been met."

The Texas Dental Association in its written comments supported the rule as published and had no objection to its adoption.

Since the Texas Dental Hygienists' Association's comments included all comments except the Dental Hygiene Advisory Committee's request for language addressing applicants who fail an exam three times, the responses will be focused on the Texas Dental Hygienists' Association comment.

All the other commentors supported all or part of the changes proposed by Dental Hygiene Advisory Committee and Texas Dental Health Hygienists' Association. It sought the language changes on the basis of the following: (1) the proposed rule could result in lowered education standards for dental hygienists; (2) changing standards now is unfair to those who in the past were required to meet a strict standard; (3) the proposed rule is contrary to the intent of the legislature (1995) concerning licensure of hygienists; (4) the Dental Practice Act, as a whole, and specifically with regard to Article 4545a §2 is ambiguous with regard to licensing of certain dental hygienists; (5) the board is charged with maintaining educational requirements for licensees and in adopting a rule to do so should include in the rule additional course requirements to include all Commission on Dental Accreditation requirements; (6) the rule should be flexible to include future changes in Commission on Dental Accreditation requirements; (7) the board has not followed statutorily prescribed proceedings for adopting rules affecting dental hygienists; and (8) the board does not have the expertise to review transcripts to determine educational equivalency, transcripts may not provide enough information concerning a program upon which to base a determination of equivalency.

Two concerns expressed dealt with the process of rule making in this case, while the others address commentors' views of ways to improve the rule. The procedural issues will be addressed first.

The board is ignoring legislative intent. There is concern, perhaps legitimate, that Texas will be licensing not only graduates of foreign dental hygiene schools, but also graduates of domes-

tic unaccredited dental hygiene schools, which the commentors say was not the intent of the legislature. If that is true, the choice of words is unfortunate. Article 4545a §2 provides that the board "....shall grant a license to a dentist or dental hygienist who has not graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association if.....". The unequivocal language of the act addresses graduates of unaccredited schools, and is not limited to graduates of foreign schools as the commentors want it to read. Commentors argue that the legislature intended to allow only graduates of foreign dental hygiene schools to become licensed in Texas. They urge the board to look to legislative intent and in support of their position allege that the statute is ambiguous based on the following: (1) the heading of Article 4545a does not include the term "unaccredited," (2) the wording of the statute does include the term and is thus ambiguous, and (3) other provisions of the act adopted prior to Article 4545a are inconsistent with the new provisions thus rendering the entire Dental Practice Act ambiguous.

Since the board finds the language to be unambiguous, it is to the language itself that the board looks to determine legislative intent; it is clearly expressed. Headings and sub-headings in statutes are not substantive and the fact that the heading only mentions foreign graduates does not require a finding that the legislature meant that its words, "unaccredited" only means foreign. The heading also only mentions dentists; should the board take the position based on the heading that the legislature did not mean to include dental hygienists in the provisions of Article 4545a §2 when the statutory language includes that term?

Commentors argue that the act is ambiguous since Article 4544 §2 provides that the board may license dentists who have graduated from foreign and/or unaccredited schools when Article 4545a §2 requires licensure if enumerated conditions are met. It is true that Article 4544 §2 is now unnecessary and it could have been repealed. Nonetheless when seeking to harmonize all the provisions of the act the two sections are not in fatal opposition and Article 4545a §2 is not rendered ambiguous, especially on the issue of dental hygienists.

They also point to provisions of Article 4551e that require dental hygienists to be graduates of accredited programs. Those provisions have been in place for a number of years while Article 4545a §2 was enacted in 1995. Further, Article 4551e provides that a dental hygienist must have graduated from an accredited school or one approved by the board in which the course of instruction is the equivalent of not less than two terms of eight months. The rule in question here requires that applicants shall have graduated from an academic program of two years of full-time study. If the rule did not require two years of study or a minimum, the provisions of Article 4551e would not be met and the board would not be authorized to grant a license. There is no conflict between the provisions of the statute and no ambiguity.

The board has adopted a rule that is intended to allow it to ensure that dental hygienists licensed in Texas are fully qualified by education to serve the needs of the people of Texas. Commentors have also indicated that the board has not followed the Dental Practice Act procedures in adopting this rule. They point to Section 27 of Senate Bill 18, that provides as follows:

Section 27: (a) The Dental Hygiene Advisory Committee shall develop and recommend rules to the State Board of Dental Examiners that establish licensure qualifications and educational requirements for dental hygienists. (b) On receiving the recommendations of proposed rules developed as provided in Subsection (a) of this section, the State Board of Dental Examiners must approve or reject the proposed rules. If the State Board of Dental Examiners does not approve a rule developed by the Dental Hygiene Advisory Committee, the board shall indicate to the advisory committee the reasons that the rule was not approved and return the rule to the advisory committee for further development. The State Board of Dental Examiners is the final authority on all rules. (c) This section expires three years from the effective date of this Act.

The Texas Dental Hygienists' Association takes the position that when adopting rules affecting dental hygienists the board may only refuse proposals made by the Dental Hygiene Advisory Committee. In other words, the board may not propose language for rules affecting hygienists, that right rests exclusively with the Dental Hygiene Advisory Committee. It is interesting that the Dental Hygiene Advisory Committee does not take that position, rather it is Texas Dental Hygienists' Association that does so. On the other hand, it did not take the position that members of the public could not propose rules affecting dental hygienists as provided in the Administrative Procedures Act. They seemed to feel that in those cases the board should work with the Dental Hygiene Advisory Committee in addressing the proposal.

The board, which has ultimate responsibility for all of its rules, even under Section 27, must have more than simple veto authority. Section 27 imposes on the Dental Hygiene Advisory Committee the responsibility to develop and propose rules and it requires the board to work with the Dental Hygiene Advisory Committee on such proposals. Further, this part of Section 27 and other provisions of the Dental Practice Act require the board to ensure that the Dental Hygiene Advisory Committee is fully involved in rule making affecting dental hygienists. In the case of Rule 103.3, the board and the Dental Hygiene Advisory Committee have been working together since June 1995. The rule has not been developed through impermissible procedures simply because the first draft of language for the rule was not proposed by the Dental Hygiene Advisory Committee. The draft was proposed by a joint committee of which the Dental Hygiene Advisory Committee members were a part.

The other proposals and concerns expressed dealt with ways to improve the rule. The board has changed the title of the rule to drop the words "and non-accredited." This request was made by several commentators. As with legislation, headings for rules are non-substantive and the board has agreed to this request. Some board members expressed concern that the title as amended might be misleading. Since it is a repeat of the heading of the statute the rule addresses, the board adopted the change.

The board has added the terms "oral and written communications; immunology; preventive counseling and management with patients of special needs; and, legal and ethical aspects of dental hygiene practice." These additional course requirements were proposed so that all the Commission on Dental Accreditation accredited schools would be included.

Section 9 was also added to provide that failing the clinical exam (required of all applicants) three times will mean that an applicant must attend a Commission on Dental Accreditation accredited school for two years. A similar provision is included in the statute.

The board did not add the word "foreign" in sub-paragraph (2) as the inclusion would limit applicants to graduates of foreign schools only. Such a limitation would be impermissible as the board would by rule be limiting the scope of the legislation.

The board did not add language providing for review of course materials other than transcripts and did not provide for review by directors of dental hygiene programs located in Texas. Except for the five course criteria added at the request of Dental Hygiene Advisory Committee, the course list and others required program criteria are the same criteria that an unaccredited program must meet before a dental hygienist is allowed to take the national board exams. (An applicant must have successfully completed this exam prior to applying for Texas licensure.) Thus, when an applicant comes to the board, his or her educational training will have been reviewed and approved by the exam administrators. The board's Credentials Review Committee will review each applicant, (the number of applicants is not expected to be large) and may seek input and evaluation assistance from the dental hygiene education community. The board questions the wisdom of requiring by rule that one or more representatives of that community serve on a reviewing committee since the board has no authority to require participation by individuals of the community.

The 411 written comments fall into several categories of complaint. The categories and the number of complaints for each are set forth below. The total number of complaints by category exceeds 411 as many writers commented concerning more than one category: (1.) Non-specific opposition to the rule-many of these persons may not have actually read the rule but perhaps were responding to rumor about the rule, 78 comments; (2) complaints about the heading or failure to follow legislative intent, 15 comments; (3) the proposed course requirements are inadequate, 10 comments; (4) allowing licensure of graduates from an unaccredited school will tend to make the profession into a "trade", 70 comments; (5) incompetent hygienists will be allowed to practice, 92 comments; and (6) the lowered standards present a threat to public health and patient care, 146 comments.

Most written complaints reflected a concern that the State Board of Dental Examiners intends to lower professional standards set for dental hygienists. The board believes that most of these responses were generated because a flyer was sent to all registered dental hygienists stating that their profession is "under attack." That flyer among other things mentioned rule making for this rule. Those letters for the most part are not directed at the rule specifically (no proposals for language changes were included in most) but appear to be in response to a vague sense that their profession is in danger. The dental hygiene profession faces no threat from the State Board of Dental Examiners. The board is following the course charted for it by the legislature by providing a rule to allow, under appropriate circumstances, graduates of unaccredited dental hygiene schools to become licensed. The board by rule is attempting to put into place a mechanism that adheres to the

legislature's directives which includes assuring that licensees have graduated from a program that is educationally equivalent to accredited programs.

The new section is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4545a §2 which provide that the State Board of Dental Examiners may adopt rules relating to licensing of dental hygienists who have not graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association and establish a procedure to determine educational equivalency of an applicant's school.

§103.3. Licensure of Graduates of Foreign Dental Hygiene Schools or Programs.

The State Board of Dental Examiners may grant a license to a graduate of a dental hygiene school or program not accredited by the Commission on Dental Accreditation of the American Dental Association upon payment of a fee, in the amount set by the Board, who meets all SBDE and State of Texas minimum applicant requirements, general licensure qualifications, and all of the following criteria:

(1) Has submitted a completed application on a form provided by the SBDE;

(2) Has presented a transcript in English from a dental or dental hygiene school which has a program equivalent to a Commission on Dental Accreditation of the American Dental Association dental or dental hygiene school or program.

(A) If translation to English is necessary, all translations must be accomplished by a certified member of the American Translators and Interpreters Guild or the American Translators Association, provided the transcript is in a language for which certification is available.

(B) If certification is not available, the translator must be a member of either organization listed above with at least three years experience interpreting the language in question.

(C) Program equivalency is established by the following criteria:

(i) the applicant must present proof in English that the program consists of a minimum of two academic years of full-time study, at the level of higher education or equivalent, involving at least 580 hours of clinical instruction, of which a maximum of 90 hours may be pre-clinical instruction;

(ii) the program must consist of instruction in the following subjects: psychology; sociology; anatomy; physiology; biochemistry, general chemistry; microbiology; pathology; nutrition; pharmacology; pain control; tooth morphology; head, neck, and oral anatomy; oral embryology and histology; oral pathology; dental materials; periodontology; radiography; clinical dental hygiene (didactic and clinical instruction); oral health education; community dental health; patient management; medical and dental emergencies including basic life support; and infection and hazard control management; oral and written communications; immunology; preventative counseling and management with patients of special needs; and legal and ethical aspects of dental hygiene practice.

(3) Has, after graduation as required, practiced dental or dental hygiene for five years immediately prior to applying;

(4) Provides proof that no final or pending disciplinary action has been initiated in any jurisdiction in which he/she is or has been licensed;

(5) Has passed a national written examination relating to dental hygiene as certified by the Joint Commission on National Dental Examinations;

(6) Has successfully completed the appropriate clinical examination administered by the designated regional examining board;

(7) Has successfully completed the SBDE's jurisprudence examination within six months prior to applying, and;

(8) Provides proof of current certification in cardiopulmonary resuscitation given or approved by the American Heart Association or the American Red Cross;

(9) An applicant for a license to practice dental hygiene under this rule 103.3 who fails three times the qualifying clinical examination required by subsection (6) of this rule 103.3 shall be required to attend and successfully complete a two-year dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association.

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.

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Douglas A. Beran

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 463-6400

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Chapter 107. Dental Board Procedures
22 TAC §107.300

The State Board of Dental Examiners adopts new §107.300, concerning employment of dentists by non-profit corporations without changes to proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10488).

The new rule establishes that dentists may be employed by certain organizations as mandated by the Texas Legislature through the Dental Practice Act. The Dental Practice Act provides at Article 4551 (a) that any person that by contract or any kind of agreement allows licensed dentists to provide dental services is practicing dentistry, which requires a license. The exception at Article 4551n was designed to allow non-profit organizations that qualify under federal law as community health centers, migrant worker health care providers, or providers of health care to homeless persons, to hire dentists to provide dental care. The rule provides a mechanism where by qualifying entities may apply to the board for approval.

No comments were received regarding adoption of this new rule.

The new section is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551n which provides that the State Board of Dental Examiners shall adopt rules relating to employment of dentists setting forth procedures for approval of applications from qualifying health organizations for certification to hire dentists.

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.

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Douglas A. Beran
Executive Director

State Board of Dental Examiners

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Chapter 109. Conduct

Professional Signs

22 TAC §109.2

The State Board of Dental Examiners adopts amendment to §109.2 concerning redesignation of a dental practice specialty without changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10489).

The amended rule changes the dental specialty currently designated as "oral pathology" to "oral and maxillofacial pathology" to comply with Resolution 67H-1995 adopted by the American Dental Association House of Delegates in 1995.

The amended rule provides clarification to the general public that dentists who limit their practices to oral pathology may announce that they are "specialists" in oral and maxillofacial pathology or that their practices are "limited" to oral and maxillofacial pathology.

No comments were received regarding adoption of this amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d §2 which provide the State Board of Dental Examiners with the authority to adopt and prescribe rules and regulations in harmony with the provisions of the Dental Practice Act.

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

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Executive Director

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Gifts and Premiums

22 TAC §109.91

The State Board of Dental Examiners adopts amendment an to §109.91 concerning gifts and premiums without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12353).

The amended rule clarifies the current rule by deleting language that may be viewed as prohibiting a practitioner from displaying his/her name on any materials that a licensee may provide as part of charitable or community service efforts, or upon advertising media.

The prior rule prohibited a practitioners from displaying his/her name on any materials, i.e., tee shirts, pens, and other items that a dentist or dental organization may provide as part of charitable or community service efforts or as permissible advertising pursuant to Article 4548f. The language in the rule as amended is sufficient to proscribe any activity designed to reimburse persons for securing patients for dentists.

No comments were received regarding adoption of the amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act.

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

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Prohibitions

22 TAC §109.107

The State Board of Dental Examiners adopts amendments to §109.107, concerning redesignation of a dental practice specialty without changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10490).

The amended rule changes the dental specialty currently designated as "oral pathology" to "oral and maxillofacial pathology" to comply with Resolution 67H-1995 adopted by the American Dental Association House of Delegates in 1995.

The amended rule provides clarification to the general public that dentists who limit their practices to oral pathology may announce that they are "specialists" in oral and maxillofacial pathology or that their practices are "limited" to oral and maxillofacial pathology.

No comments were received regarding adoption of this amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act.

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

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Fair Dealing

22 TAC §109.141

The State Board of Dental Examiners adopts an amendment to §109.141, concerning disclosure without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12354).

The amended rule brings the State Board of Dental Examiners into compliance with the Health Professions Council Act regarding plain language explanations of billing statements.

The rule is amended by adding section (b) to require that upon request a dentist provide a plain language explanation of charges for professional services. Such requirement is imposed by statute at Article 4512p §(5). The statute provides no guidance concerning the meaning of the term "plain language." To avoid a subjective interpretation by a licensee that medical or dental jargon is plain language, the rule proscribes using words that are terms of art or that have specialized meaning in a health care context.

No Comments were received regarding adoption of the amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules

consistent with the Dental Practice Act; and Article 4512p §5 of the Health Professions Council Act.

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

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For further information, please call: (512) 463-6400

Definitions

22 TAC §109.211

The State Board of Dental Examiners adopts an amendment to §109.211, concerning definitions of unprofessional conduct, dishonorable conduct, and immoral conduct when applied to the conduct of a dental licensee with changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12355).

The amended rule brings the State Board of Dental Examiners into compliance with provisions of the Health Professions Council Act, Texas Revised Civil Statute, Article 4512p §5(b).

The amended rule includes four additional activities that are to be included within the definition of unprofessional, dishonorable and immoral conduct.

New paragraph (14) provides that being convicted of any felony or of any misdemeanor involving fraud is behavior that is included within the definition. Paragraph (14) as adopted is changed from the published rule by dropping the words "Proof of" from the section. This deletion was made for clarity. The Dental Practice Act at Article 4549 §2(b) provides that such conviction may be cause for imposition of sanctions upon a licensee. Such activity heretofore has not been defined by rule, the purpose is to include it in a rule.

Paragraph (15) includes within the rule definition activity that may contribute to violation by others of the Dental Practice Act though such activity is not specifically enunciated. The Act at Article 4551a (4) provides that anyone who owns or operates any business through which dental services are provided is practicing dentistry. Practice by such individuals or organizations that are not authorized by law, i.e., for-profit corporations, though illegal is beyond the reach of the State Board of Dental Examiners, except for assisting proper law enforcement authorities in the prosecution of violators. The agency is charged with responsibility to adopt and enforce rules that, among other things, ensure compliance with laws regulating the practice of dentistry. The purpose of this rule is to establish that practice by a licensee through or under a person not authorized to practice is a violation. By defining such actions as dishonorable, they are proscribed by the Act and are sanctionable. Article 4549 §2(C)

Paragraph (16) and (17) are added to include activity prohibited by Texas Civil Statute, Article 4512p (Vernon Pamph. 1996). That section provides that health care providers may not persistently or flagrantly overcharge or over treat a patient. The term "overcharge" is defined to mean charging a patient, without reasonable justification, more than the provider ordinarily charges others for the same service. Rather than address the magnitude of fees charged, the rule only requires that all patients be charged the same fees unless there is justification for a different charge. If a health care provider charges outrageous fees, when compared to fees charged by other providers to all patients for a given service, demand for that service will be affected.

No comments were received regarding adoption of this amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act, and Texas Civil Statutes, and Article 4512p §5(b) of the Health Professions Council Act which proscribes certain treatment and billings practices for health care providers.

§109.211. Unprofessional, Dishonorable, and Immoral Conduct.

Unprofessional conduct, dishonorable conduct, and immoral conduct are synonymous terms when applied to the conduct of a dental licensee and include the following:

(1)-(13) (No change.)

(14) Conviction of any felony or misdemeanor involving fraud under the laws of this State or any other State or of the United States.

(15) Providing dental services to any patient while employed by, or under any kind of contract whatsoever, with any person not licensed to practice dentistry or while such person's dental license is currently expired, surrendered, suspended, or revoked, or providing dental services to any patient while employed, by or under any kind of contract whatsoever with, any organization not authorized by law to provide dental services.

(16) Persistently or flagrantly overtreating a dental patient.

(17) Overcharging a dental patient. For this rule the meaning of the term "overcharging" includes, but is not limited to, collecting or attempting to collect a fee without reasonable justification for any element of dental services provided to a patient that is in excess of the fee the dentist ordinarily charges to others for the same service.

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.

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TRD-9702702

Douglas A. Beran

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 463-6400

Chapter 115. Extension of Duties of Auxiliary Personnel Dental Hygiene

22 TAC §115.2

The State Board of Dental Examiners adopts an amendment to §115.2 concerning permitted duties of dental hygienists with changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12356).

The Board on motion of a member adopted new language to clarify that the permit is for nitrous oxide/oxygen inhalation conscious sedation. The amended rule establishes that dental hygienists who are appropriately trained and certified may apply pit and fissure sealants and monitor patients receiving nitrous oxide/oxygen inhalation conscious sedation. Amendments to §115.2(1) remove current restrictions to Texas dental and dental hygiene schools so that certifications for applying pit and fissure sealants can be obtained from any accredited school and clarify that a certificate must be obtained from the State Board of Dental Examiners. Since dental hygienists who have graduated from any accredited school, after examination may be licensed in Texas, a requirement that pit and fissure training be obtained only in a Texas school is not justifiable. Amendments to §2 clarify the process by which certified persons may monitor administration of nitrous oxide conscious inhalation sedation and clarify that such required certification is obtained from the State Board of Dental Examiners. All proposed amendments were reviewed and approved by the Dental Hygiene Advisory Committee as directed by Section 27 (Statutory Notes) of the Dental Practice Act.

No comments were received regarding adoption of the amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551e and Article 4551e-1 which provide that the State Board of Dental Examiners may adopt rules relating to permitted duties of dental hygienists and auxiliary personnel.

§115.2. Permitted Duties.

In addition to those duties identified in Article 4451e-1(b)(2), a dental hygienist may perform the following services and procedures in the dental office of his/her dentist-employer under his/her general supervision, direction and responsibility, to wit:

(1) apply pit and fissure sealants only after successful completion of a course of instruction in a dental or dental hygiene school or college accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the State Board of Dental Examiners and after receipt of certification by the State Board of Dental Examiners. Certification to apply pit and fissure sealants in Texas may be obtained by submitting a written request accompanied by required proof of course completion.

(2) monitor patients receiving nitrous oxide/oxygen inhalation conscious sedation only after obtaining certification issued

by the State Board of Dental Examiners and only under the direct supervision of a Texas licensed dentist. Certification may be obtained by successful completion of the certification examination offered by the State Board of Dental Examiners.

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.

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Executive Director

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For further information, please call: (512) 463-6400

Chapter 116. Dental Laboratories

22 TAC §116.2

The State Board of Dental Examiners adopts an amendment to §116.2 concerning the definition of a dental technician with changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12357).

The amended rule as published broadened the definition of a dental technician and removed the time work component from the definition. That component is addressed elsewhere in these rules. It also provided that a dental technician could perform services only in commercial, or in house laboratories.

Comments were received from the Dental Laboratory Association of Texas regarding adoption of the amended rule. The Dental Laboratory Association of Texas filed written comments concerning the rule and requested that the last sentence of the published rule be deleted. The Association pointed out that dental technicians may on occasion be asked to go to a dentist's office to perform a service such as shade taking. The State Board of Dental Examiners agrees that the proposed change should be made as the intent of the last sentence was to prohibit dental technicians from operating in a free lance mode. Other provisions of the statute and rules prohibit such activity as dental technicians may not perform services without a prescription or work order and only dentists may only provide work orders or prescriptions to registered laboratories.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and dental laboratories.

§116.2. Dental Technician.

A "Dental Technician" is a person who performs the services as set out in Article 4551f (1) and includes, but is not limited to, all certified dental technicians who have a current certificate issued by the National Board For Certification For Dental Laboratory Technology or its successor.

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.

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Douglas A. Beran

Executive Director

State Board of Dental Examiners

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22 TAC §116.3

The State Board of Dental Examiners adopts an amendment to §116.3, concerning dental laboratory requirements with changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12357).

As published the amended rule clarifies that commercial and in house dental laboratories employing or using the services of more than two dental technicians must be registered.

Subsection (a)(1) which permits shade taking is expanded to include specific infection control requirements.

Subsection (b) was amended to require that laboratories maintain prescriptions for two years. The applicable statute, Article 4551f §3(b) imposes the same requirement.

Subsection (c) was added to provide that a certified dental technician must be on the premises of a laboratory, at least 30 hours per week and that a dental technician may be designated as a certified dental technician for only one laboratory. This provision was added to prevent dental technicians from serving as the certified dental technician for more than one laboratory, as the Dental Laboratory Certification Council had indicated this was a problem.

Subsection (d) was added to spell out the criteria for which the Dental Laboratory Certification Council will review each application to determine eligibility for registration.

Subsection (e) was added based upon a request from the Dental Laboratory Certification Council for a provision that would prevent laboratories' owners or operators from registering any new laboratory if such operator or owner has unpaid fees or penalties from a previous registration, until such fees or penalties are paid.

Subsection (f) was added to ensure that laboratories maintain with the board current information concerning the status of a laboratory and its certified dental technicians. Currently, once a laboratory has renewed its annual registration it may change a certified dental technician or dental technician without establishing that the replacement is currently in compliance with continuing education requirements.

Subsection (g) was added to require that all laboratories be maintained in a clean and sanitary condition.

Written comments were made only by the Dental Laboratory Certification Council. The Association recommends that subsection (a)(1)(E) be amended to add after the word "mirror" the

term "for extraoral use." The recommended changes is intended to make it clear that the mirror a dental technician may use is for external use only. The board accepts this recommendation.

The association commented that subsection (b) should provide that work could only be farmed out to registered laboratories. The board agrees with the proposal. The state's interest in the condition under which dental laboratory work is performed extends to work that is "farmed out" and requirements that farmouts, which are recognized in the statute, may only be made to registered laboratories is reasonable.

The association suggested that subsection (f) should be changed to allow six months' time for newly designated Certified Dental Technicians to meet continuing education requirements as 60 days set forth in the published rule may not be sufficient time for completion of courses if needed by the new designee. The board accepts this proposal.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

§116.3. Requirements.

(a) A commercial dental laboratory and an in-house dental laboratory with more than two dental technicians shall be registered according to the provisions of Texas Civil Statutes, Article 4551f (6) (a)-(c), if it is a place where a person undertakes to perform or accomplish any act or service listed in Texas Civil Statutes, Article 4551f(1). Permitted services to be performed under a written prescription from a licensed dentist in addition to those described in Article 4551f(1), include:

(1) Shade taking. Dental laboratories providing this service shall institute and maintain infection control procedures for in-laboratory shade verification to protect the patient and laboratory staff from infectious contamination. Each laboratory shall:

(A) Dedicate a specific area of the laboratory for performance of shade verification procedures.

(B) Maintain the area used for shade verification in a neat, clean, and clutter free state at all times.

(C) Disinfect areas of patient contact both before and after each patient.

(D) Provide a dedicated set of shade guides to be used only for patient shade verification. Disinfect shade guides before and after each use.

(E) Provide a patient hand mirror for extraoral use. Disinfect mirror before and after each patient use.

(F) Use a disinfecting agent for cleaning shade guides that are accidentally dropped.

(G) Require that the technicians taking the shade wear protective clothing, including gloves.

(2) Computer imaging as pertaining to the oral cavity by a registered laboratory. Computer imaging may be accomplished only when authorized by a written prescription from a licensed dentist. The

result should be furnished to that dentist accompanied by a disclaimer to the patient that computer imaging is an artistic interpretation and does not guarantee exact results.

(b) A dental laboratory shall furnish each licensed dentist from whom prescriptions are accepted with its permanent registration number and expiration date of such registration, and shall maintain for a period of two years any work orders of any laboratory with which it contracts services. The work order shall reflect the Texas registration number and registration expiration date of the contracted laboratory. No work may be farmed out except to a Texas registered dental laboratory.

(c) All dental laboratories first registered after September 1, 1987 must have a certified dental technician on premises a minimum of 30 hours per week. The certified dental technician may be the designated CDT of record for only one laboratory per registration period.

(d) The Dental Laboratory Certification Council shall ensure that the following criteria are met for each new laboratory registration application and each renewal of any registration.

(1) application/renewal is complete and all required information is provided.

(2) current and active CDT certification for designated CDT, or, for grandfathered laboratories, proof of continuing education hours as outlined in §116.4 of this title (relating to Continuing Education) is attached and current.

(3) appropriate fee is attached.

(e) Any laboratory owner applying for a new laboratory registration who has pending fees and/or penalties due from a previous laboratory registration when such laboratory was closed for non compliance with subsection (f) of this section must first remit to the SBDE the registration fee and penalties for each year such fees were not paid before the registration is approved and processed.

(f) It shall be the duty of each laboratory owner to notify the SBDE in writing within 60 days of a change in: location of laboratory, closure of laboratory, the designated CDT or, in the case of a grandfathered lab, the designated employee. Changes of CDT's will require that proof of current CDT certification for the replacement CDT accompany said notification. Changes of designated employees for a grandfathered lab will require proof within six (6) months of the change that the designated employee meets continuing education requirements.

(g) A person owning or operating a laboratory in the State of Texas must maintain the entire laboratory in a clean and sanitary condition without any accumulation of trash, debris, or filth, and such premises shall be maintained in full compliance with all health requirements of the city or county, or both, in which such a laboratory is located and in conformity with the health laws of the State of Texas.

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.

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Douglas A. Beran

Executive Director

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22 TAC §116.4

The State Board of Dental Examiners adopts an amendment to §116.4, concerning continuing education criteria for Texas dental laboratories with the changes to proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12358).

The amended rule provides for assurance of continued competence of dental technicians.

Written comments were received from the Dental Laboratory Association of Texas which proposed that the rule provide for certification by National Board for Certification For Dental Laboratory Technology or its successor, to provide for a possible name change of the certifying entity. The board accepts this proposal.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

§116.4. Continuing Education.

(a) Any laboratory renewing a certificate must provide proof that:

(1) the designated CDT has met the continuing education requirements of the National Board For Certification For Dental Laboratory Technology, or its successor, or;

(2) in the case of grandfathered laboratories that the designated employee working on the premises of the dental laboratory has completed at least 12 hours of continuing education during the preceding 12 month period. Continuing education hours may only be used for one renewal period.

(b) The continuing education shall be comprised of business management, infection control, and technical competency courses presented in seminars or clinics as accepted by a nationally recognized organization of dentistry or dental technology. The designated employee must complete at least one course in infection control annually. No more than one course in business management taken annually may be applied toward the continuing education requirement. Self study in a course approved by a nationally recognized organization of dentistry or dental technology may be taken for not more than four hours of the annual requirement.

(c) In lieu of furnishing proof of continuing education as set forth in subsection (b) of this section, the dental laboratory may furnish proof that the designated dental technician has a current certification by the National Board For Certification For Dental Laboratory Technology or its successor. Certification as retired does not qualify the technician.

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.

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TRD-9702706
Douglas A. Beran
Executive Director
State Board of Dental Examiners
Effective date: March 18, 1997
Proposal publication date: December 24, 1996
For further information, please call: (512) 463-6400

◆ ◆ ◆
22 TAC §116.5

The State Board of Dental Examiners adopts an amendment to §116.5, concerning dental laboratory exemptions without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12359).

The amended rule clarifies that grandfathered laboratories, those registered prior to September 1, 1987, will relinquish their grandfathered status if they fail to renew their annual registrations before they expire each year. The amended rule requires that to be a designated employee, the employee must work on the premises of the dental laboratory at least 30 hours per week.

No comments were received regarding adoption of this amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

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.

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◆ ◆ ◆
22 TAC §116.20

The State Board of Dental Examiners adopts new §116.20, concerning definitions of words and terms used in Chapter 116, Dental Laboratories without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12360).

The new rule clarifies the terminology used in dental laboratory rules.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

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.

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For further information, please call: (512) 463-6400

◆ ◆ ◆
22 TAC §116.22

The State Board of Dental Examiners adopts an amendment to §116.22, concerning In House dental laboratories without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12360).

The new rule includes the employees of a dentist operating an in-house laboratory and includes a requirement similar to a statutory requirement, that the in house laboratory be on the premises where the dentist or dental organization practices dentistry.

No comments were received regarding adoption of this rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

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.

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For further information, please call: (512) 463-6400

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22 TAC §116.24

The State Board of Dental Examiners adopts new §116.24, concerning criteria used when reviewing dental laboratory registration applications with changes to the proposed text as published

in December 24, 1996, issue of the *Texas Register* (21 TexReg 12361).

The new rule as published provided that the Dental Laboratory Certification Council would review all applications and recommend applications for registration to assure qualified dental laboratories are registered by the State Board of Dental Examiners.

Written comments were received from the Dental Laboratory Association of Texas. The association proposed that the wording of the rule be amended to include wording in the statute that provides that the Dental Laboratory Certification Council shall review all applications to determine if they are eligible for registration. The board agrees with this proposed change.

The new rule is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

§116.24. Registration Application.

The Dental Laboratory Certification Council (DLCC) shall review each application for registration or renewal of registration to determine if the applicant meets the requirements of Article 4551f. The DLCC shall provide the Board with a list of applicants who are eligible for registration with the Board. Applications will be forwarded with a recommendation to the State Board of Dental Examiners for registration if the provisions of Article 4551f and the rules in this section are met and the following criteria are met:

(1) application/renewal is complete and all required information is provided,

(2) current and active CDT certification for designated CDT, or, for grandfathered laboratories, proof of continuing education hours as outlined in §116.4 of this title (relating to Continuing Education) is attached and current,

(3) appropriate fee is attached.

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.

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Executive Director

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For further information, please call: (512) 463-6400

◆ ◆ ◆
22 TAC §116.25

The State Board of Dental Examiners adopts new §116.25, concerning the responsibility of the owner and manager of a dental laboratory in Texas without changes to the proposed text as published in the December 24, 1996, issue of the *Texas Register* (21 TexReg 12361).

The new rule clarifies that the owner and manager of a laboratory are directly responsible for the registrations and operations of a laboratory and are subject to criminal penalties and loss of registration.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; and Article 4551f which provides that the State Board of Dental Examiners may adopt rules relating to dental technicians and laboratories.

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.

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State Board of Dental Examiners

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Chapter 117. Faculty and Students in Accredited Dental Schools or College

22 TAC §117.1

The State Board of Dental Examiners adopts an amendment to §117.1 concerning exemption status for faculty members, students, dental interns, and dental residents in accredited dental schools or colleges with changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10490).

The amended rule sets forth in rule the statutory exemption for faculty, dental students, dental residents, dental interns, dental hygiene students and provides for SBDE identification numbers and fees.

The amended rule provides clarification that faculty, students, interns, and residents may provide clinical dental services to the public but within the confines of a dental school program and not via private practice and that faculty, interns, and residents may prescribe controlled substances in the clinical practice via a unique identification number that is issued by the State Board of Dental Examiners but is not equivalent to a Texas dental license. The title to Chapter 117 is changed to clarify that it applies to faculty and students and to track the statutory language specifying accredited schools or colleges.

Comments were received from the Dental Hygiene Advisory Committee on December 6, 1996, and from the Texas Dental Hygienists' Association. The association pointed out that it believed the board could not adopt the language in the rule concerning dental hygienists unless the language was first proposed by the Dental Hygiene Advisory Committee or the public.

The board is not persuaded by this comment as the Dental Hygiene Advisory Committee was provided with full opportunity to comment concerning the rule and in fact the board has adopted changes proposed by the Dental Hygiene Advisory Committee. The Dental Hygiene Advisory Committee proposed that the exemption language for dental hygiene students be the same as for dental students in so far as requirements for supervision by faculty members are set forth. The two exemptions are worded somewhat differently since the statutory language for each exemption is different. Nonetheless, the request that the rule require faculty supervision for dental hygiene students is reasonable even though the statute does not include such a requirement. Accordingly, the recommendations of the Dental Hygiene Advisory Committee are included in the rule as adopted.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Statutes, Article 4543a §2 and Article 4551d which provide the State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act; Article 4543a §2 which provides the State Board of Dental Examiners with the authority to adopt and prescribe rules and regulations in harmony with the provisions of the Dental Practice Act, Articles 4543 et seq; Article 4551b §9 which provides that the Board may by rule define the conditions under which residents and interns are exempt from certain provisions of the Dental Practice Act, and Article 4551b §10 which provides an exemption for dental hygiene students, and Article 4551b(l) which provides an exemption for dental school faculty and Article 4551(b)(2) which provides an exemption for students of dental schools.

§117.1. Exemptions.

(a) The definition of dentistry as contained in Texas Civil Statutes Articles 4543-4551j, as amended, shall not apply to the following:

(1) Members of the faculty of a reputable dental college or school who are not licensed to practice dentistry in Texas where such faculty members perform their services for the sole benefit of such school or college.

(2) Students of a reputable dental college or school who are candidates for a degree and who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college or school approved by the State Board of Dental Examiners, or for and on behalf of and in a school, hospital, state institution, public health clinic, or other facility approved for student dental service by the State Board of Dental Examiners.

(3) Students of a reputable dental hygiene college or school who are candidates for a degree who practice dental hygiene without pay in strict conformity with the laws of this state regulating the practice of dental hygiene under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental hygiene college or school approved by the State Board of Dental Examiners, or for and on behalf of and in a school, hospital, state institution, public health clinic, or other facility approved for student dental hygiene service by the State Board of Dental Examiners.

(4) Dental interns who pursue advanced education in dentistry under the auspices of an institution, such as a dental school

or hospital, which offers the type of advanced program designed to meet accreditation requirements as established by the Commission on Dental Accreditation of the American Dental Association. Dental interns may perform any clinical service included in the program of advanced education for which he/she is enrolled, as long as such service is accomplished under the auspices of the sponsoring institution, and as authorized by the program supervisor. A dental intern not licensed in Texas may not assess fees for clinical services rendered. An unlicensed dental intern may not engage in private practice.

(5) Dental residents who pursue advanced education in dentistry under the auspices of an institution, such as a dental school or hospital, which offers the type of advanced program designed to meet accreditation requirements as established by the Commission on Dental Accreditation of the American Dental Association. The residency program usually follows an internship and the objective customarily is to prepare specialists in selected fields of clinical dentistry. Dental residents may perform any clinical service included in the program of advanced education for which he/she is enrolled, as long as such service is accomplished under the auspices of the sponsoring institution, and as authorized by the program supervisor. A dental resident not licensed in Texas may not assess fees for clinical services rendered. An unlicensed dental resident may not engage in private practice.

(b) Members of the faculty of a reputable dental college or school who perform their services for the sole benefit of such school or college shall be entitled to apply for and to receive a non-renewable identification number issued by the SBDE to be used solely for the purpose of applying for a Controlled Substances narcotics registration from the Texas Department of Public Safety and the Drug Enforcement Administration to prescribe, administer, or dispense controlled substances.

(c) Dental interns and residents shall be entitled to apply for and to receive an identification number issued by the SBDE to be used solely for the purpose of applying for a Controlled Substances narcotics registration from the Texas Department of Public Safety and the Drug Enforcement Administration to prescribe, administer, or dispense controlled substances.

(d) The SBDE will void each identification number issued to faculty members two years after the date of issuance. Identification numbers issued to interns and residents will be voided upon the termination of the internship or residency as applicable.

(e) The SBDE will notify the Texas Department of Public Safety and the Drug Enforcement Administration when an identification number is issued and when an identification number is voided.

(f) Each application for an SBDE identification number shall be accompanied by a fee in an amount set by the Board.

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.

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Douglas A. Beran

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 463-6400

Chapter 119. Special Areas of Dental Practice 22 TAC §119.3

The State Board of Dental Examiners adopts an amendment to §119.3, concerning redesignation of a dental practice specialty with changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10491).

The amended rule changes the dental specialty currently designated as "oral pathology" to "oral and maxillofacial pathology" to comply with Resolution 67H-1995 adopted by the American Dental Association House of Delegates in 1995.

The amended rule provides clarification to the general public of terminology regarding the dental specialty "oral and maxillofacial pathology." The title is changed to include the words "and Maxillofacial".

No comments were received regarding adoption of this amended rule.

The amendment is adopted under Texas Government Code §2001.021 et seq; Texas Civil Article 4543 a §2 and Articles 4543 and Article 4551d which State Board of Dental Examiners with the authority to adopt and promulgate rules consistent with the Dental Practice Act. 119.3. Oral and Maxillofacial Pathology. Oral and maxillofacial pathology is that branch of science which deals with the nature of the diseases affecting the oral and adjacent regions, through study of its causes, its processes and its effects, together with the associated alterations of oral structure and function. The practice of oral and maxillofacial pathology shall include the development and application of this knowledge through the use of clinical, microscopic, radiographic, biochemical or other laboratory examinations or procedures as may be required to establish a diagnosis and/or gain other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alterations from the normal.

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.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 371. Drinking Water State Revolving Fund

The Texas Water Development Board adopts new Chapter 371, concerning the creation, capitalization by federal grant and state match, purposes and administration of the drinking water state revolving fund (dwsrf). Sections 371.2, 371.12, 371.13, 371.18, 371.20, 371.35, and 371.102 are adopted with changes to the proposed text as published in the January 14, 1997, issue of the *Texas Register* (22 TexReg 708). Sections 371.1, 371.3, 371.4, 371.11, 371.14-371.17, 371.19, 371.21, 371.31-371.34, 371.36-371.39, 371.51, 371.52, 371.61, 371.62, 371.71, 371.72, 371.81-371.89, and 371.101 are adopted without changes to the proposed text as published in the January 14, 1997, *Texas Register* (22 TexReg 708) and will not be republished.

The fund will provide low interest loans to eligible applicants of the state pursuant to 42 United States Code 300f et seq. and the Texas Water Code, §§15.601-15.609 and 17.0821.

Comments on the proposed sections were received from the Environmental Protection Agency, Texas Rural Water Association, and the City of Edinburg. The comments centered around the need for additional language for clarification, the method of providing financial assistance, and affordability factors in the rating system. The following changes have been made to address clarification issues.

Section 371.2, Definition of Terms, changes the cite of the Safe Drinking Water Act and revises "administrative costs" to clarify that "servicing debt obligation" is limited to the State's administrative costs of servicing debt obligations. Further, the definition of "population" is revised to require that applicant-supplied data must be acceptable to the Executive Administrator and must include information on the population for which the project is designed.

Section 371.12, Types of Financial Assistance, has been changed to entitle the section "Uses of the Fund" and to add new subsection (6) which provides that the fund may be used for up to 4% of the funds allotted to the State to cover the reasonable costs of administration of the program.

Section 371.13, Projects Eligible for Assistance, is revised to read that projects are eligible for assistance if they will facilitate compliance with secondary as well as primary drinking water regulations. Further, §371.13 now specifies that projects are not eligible for DWSRF funds if the primary purpose of the project is to supply or attract growth.

Section 371.18, Capitalization Grant Requirements for Applicants, which lists federal requirements that must be satisfied is changed to include Executive Order 12549, Debarment and Suspension, and the Wilderness Act.

Section 371.20, Intended Use Plan, is changed to add paragraph (b)(4) providing a public notice period of 30 days prior to and a comment period for 30 days following the public hearing on the Intended Use Plan.

Section 371.35, Required Environmental Review and Determinations, has been changed at §371.35(b)(2)(B) to add the requirement of the applicant's Responsiveness Summary to the issues raised at the public hearing on the project as part of

the information that must be submitted to the executive administrator. The section is changed to add to the requirement of an Environmental Assessment, §371.35(c)(2)(G), a summary of the public comments and the response to those comments by the applicant. Reference to the Wilderness Act is added at §371.35(d).

Section 371.102, Final Accounting, is changed to clarify that the applicant will retain construction records for three full state fiscal years.

One commenter expressed concern that requiring every applicant to provide a water conservation plan may conflict with the Safe Drinking Water Act (Act) as an automatic exclusion from funding. The comment acknowledges the exemptions to the requirement; that is, where the request for funding is for \$500,000 or less or an emergency exists.

Response: The Act recognizes the importance of water conservation and adds a new section on water conservation to the Act. Section 1455 (a) and (b) of that Act set out requirements for EPA to develop and publish guidelines for water conservation plans within approximately the next eighteen months. The Act further provides that states may require submission of water conservation plans that are consistent with the guidelines as a condition of funding from the DWSRF. Therefore, because of the State statutory requirement for water conservation plans and the intent of the Act to encourage water conservation plans, staff does not recommend that the language of this section of the proposed rule be revised.

One commenter opposed requiring a bond counsel and financial advisor to access the DWSRF and expressed concern that DWSRF loan requests for amounts under \$250,000 will not be economically feasible because of the requirement to hire a bond counsel and financial advisor.

Response: Staff is currently examining this question and may consider future changes to the rule.

One commenter expressed concern that the §371.19(c) Affordability Factor, while allowing a rating factor for areas where the per capita income averages 25% or more below the state average, does not allow Economically Distressed Areas to compete effectively with other areas of the State. The commenter contends that the identified Economically Distressed Areas should receive a greater rating factor due to the extreme indigence associated with this designation.

Response: TNRCC has developed a priority rating criteria which are based on data currently available and which assigns greater priority ratings to water systems presenting greater risks to public health. The criteria includes an affordability factor which is added to the sum of all the public health risk-associated factors. So affordability is considered in the development of the criteria. However, in the Act, itself, considerations of affordability do not outweigh public health risk factors. Staff therefore disagree with a revision to the section as proposed.

Introductory Provisions

31 TAC §§371.1-371.4

The new sections are adopted under the authority of the Texas Water Code, §6.101 and §15.605 which provide the Texas Water Development Board with the authority to adopt rules

necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

§371.2. Definitions of Terms.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the Texas Water Code, Chapter 15 and not defined here shall have the meanings provided by Chapter 15.

Act - The federal Safe Drinking Water Act, as amended 1996, and its subsequent amendments or successor provisions.

Administrative costs - All reasonable and necessary costs of administering any aspect of the DWSRF program, including administrative costs associated with servicing debt obligations of recipients of DWSRF financial assistance.

Administrator - The chief officer of the Environmental Protection Agency appointed by the President of the United States.

Applicant - An eligible applicant which files an application with the board for financial assistance or associated actions.

Application for assistance - All the information required for submittal in: §371.32 of this title (relating to Required General Information), §371.33 of this title (relating to Required Fiscal Data), §371.34 of this title (relating to Required Legal Data), §371.35 of this title (relating to Required Environmental Review and Determinations), §371.36 of this title (relating to Required DWSRF Engineering Feasibility Report), and §371.37 (relating to Required Water Conservation Plan), or §371.38 of this title (relating to Pre-Design Funding Option) for those applicants choosing the pre-design funding option.

Authorized representative - The signatory agent of the applicant authorized and directed by the applicant's governing body to make application for assistance and to sign documents required to undertake and complete the project, on behalf of the applicant.

Board - The Texas Water Development Board.

Bonds - All bonds, notes, certificates, book-entry obligations, and other obligations issued or authorized to be issued by any political subdivision.

Building - The erection, acquisition, alteration, remodeling, improvement or extension of a water project.

Capitalization grant - Federal grant assistance awarded to the state for capitalization of the Drinking Water State Revolving Fund.

Closing - The time at which the requirements for loan closing have been completed pursuant to §371.71 of this title (relating to Loan Closing) and an exchange of debt for funds to either the applicant, an escrow agent bank, or a trust agent has occurred.

Commission - The Texas Natural Resource Conservation Commission.

Commitment - An action of the board evidenced by a resolution approving a request for financial assistance from the fund.

Construction - Any one or more of the following activities:

(A) preliminary planning to determine the feasibility of a water project;

(B) engineering, architectural, environmental, legal, title, fiscal, and economic or other pertinent studies;

(C) surveys, designs, plans, working drawings, specifications, procedures;

(D) building or the inspection or supervision thereof; and

(E) activities authorized under §371.14 of this title (relating to Other Authorized Activities).

Construction fund - A dedicated source of funds, created and maintained by the applicant at an official depository, or a designated depository approved by the executive administrator, used solely for the purposes of construction of a project as approved by the board.

Contaminant - any physical, chemical, biological, or radiological substance or matter in water.

Contract documents - The engineering description of the project including engineering drawings, maps, technical specifications, design reports, instructions and other contract conditions and forms that are in sufficient detail to allow contractors to bid on the work.

Cost-effectiveness determination - A determination based on engineering, environmental, and financial analyses that a proposed project or component part will result in the minimum total monetary (resources) costs over time, but without overriding adverse social, economic and environmental considerations.

Debt - All bonds issued or to be issued by any political subdivision.

Delivery - The time at which payment is made by the board to the loan recipient against the purchase price of the loan recipient's debt and at which the board takes possession of the instruments evidencing the loan recipient's debt. Delivery may occur simultaneously with a release of funds, or without release of funds pursuant to an escrow agreement.

DWSRF - Drinking Water State Revolving Fund, a program of financial assistance administered by the board for water projects pursuant to the Act and Texas Water Code, Chapter 15.

Eligible applicant - A political subdivision as defined pursuant to Texas Water Code, Chapter 15.

Environmental determination - A finding by the executive administrator regarding the potential environmental impacts of a proposed project and describing what mitigative measures, if any, the applicant will be required to implement as a condition of financial assistance.

Environmental information document - A written analysis prepared by the applicant describing the potential environmental impacts of a proposed project, sufficient in scope to enable the executive administrator to prepare an environmental assessment to allow an environmental determination to be made by the executive administrator.

Environmental review - The process whereby an evaluation is undertaken by the board, consistent with the National Environmental Policy Act and other federal, state, and local laws and requirements, to determine whether a proposed project may have significant impacts on the environment and therefore require the preparation of an environmental impact statement, as detailed in §371.5 of this title (relating to Required Environmental Review and Determinations).

EPA - The Environmental Protection Agency.

Escrow - The transfer of funds to a custodian of the funds which will act as the escrow agent or trust agent.

Escrow agent - The third party appointed to hold the funds which are not eligible for release to the loan recipient.

Escrow agent bank - The financial institution which has been appointed to hold the funds which are not eligible for release to the loan recipient.

Executive administrator - The executive administrator of the board or a designated representative.

Financial assistance - Loans by the board from the DWSRF to eligible applicants.

Fund - The DWSRF created pursuant to the Texas Water Code, Subchapter J, Chapter 15.

Funding year - The particular federal fiscal year (October 1 - September 30) for which funds are made available to the DWSRF.

Intended use plan - A plan identifying the intended uses of the amount of funds available through the DWSRF for financial assistance and administrative costs for each fiscal year as described in the Act, §1452.

Lending rate - Interest rate assessed to loan applicants for loans through the DWSRF.

Market interest rates - Interest rates comparable to those attained for municipal securities in an open market offering.

Municipality - a city, town, or other public body created by or pursuant to State law, or an Indian Tribe.

Population - That number of people who reside within the territorial boundaries of or receive wholesale or retail water service from the applicant based upon data that is acceptable to the executive administrator and which includes the following:

(A) information in the DWSRF engineering feasibility report or latest official census for an incorporated city; or

(B) information on the population for which the project is designed, where the applicant is not an incorporated city or town.

Primary drinking water regulation - a regulation promulgated by EPA which:

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either:

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of the Act, §300f; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to:

(i) the minimum quality of water which may be taken into the system; and

(ii) siting for new facilities for public water systems.

Priority list - A list of projects, ranked according to priority order, for which DWSRF assistance may be requested.

Project - The scope of work describing a construction endeavor for which financial assistance is sought.

Project engineer - The engineer or engineering firm retained by the applicant to provide professional engineering services during the planning, design, and/or construction of a project.

Public water system -

(A) In General. The system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:

(i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

(ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(B) Connections. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if:

(i) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(ii) the Administrator or the Commission determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(iii) the Administrator or the Commission determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(C) Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subparagraphs (B)(ii) and (B)(iii) of this paragraph.

(D) Transition Period. A water supplier that would be a public water system only as a result of modifications made shall not be considered a public water system until two years after August 6, 1996. If a water supplier does not serve 15 service connections or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water system.

Release - The time at which funds are made available to the loan recipient.

Secondary drinking water regulation - A regulation promulgated by EPA which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may vary according to geographic and other circumstances and may apply to any contaminant in drinking water:

(A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or

(B) which may otherwise adversely affect the public welfare.

State - State of Texas.

State allotment - The sum allocated to the State of Texas for a federal fiscal year, from funds appropriated by congress pursuant to the Act.

Trust agent - The party appointed by the applicant and approved by the executive administrator to hold the funds which are not eligible for release to the loan recipient.

Water conservation plan - A report outlining the methods and means by which water conservation may be achieved in an area, as further defined in §371.37 of this title (relating to Required Water Conservation Plan).

Water conservation program - A comprehensive description and schedule of the methods and means to implement and enforce a water conservation plan.

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.

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TRD-9702673

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

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For further information, please call: (512) 463-7981

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Program Requirements

31 TAC §§371.11-371.21

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

§371.12. *Uses of the Fund. The fund may be used for the following purposes:*

(1) to make loans on the condition that:

(A) the interest rate for each loan is less than or equal to the market interest rate;

(B) principal and interest payments on each loan will commence not later than one year after completion of the project for

which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project;

(C) the recipient of each loan will establish a dedicated source of revenue for the repayment of the loan; and

(D) the fund will be credited with all payments of principal and interest on each loan; and

(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

(3) to guarantee or purchase insurance for a bond (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the bond;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the board if the proceeds of the sale of the bonds will be deposited into the fund;

(5) to earn interest on the amounts deposited into the fund; and

(6) to cover the reasonable costs of administration of the programs under the chapter up to 4% of the funds allotted to the State.

§371.13. *Projects Eligible for Assistance.*

(a) Projects are eligible for assistance if they will facilitate compliance with the primary or secondary drinking water regulations applicable to the public water system or otherwise significantly further the health protection objectives of the Act. Such projects include:

(1) capital investments to upgrade or replace infrastructure in order to continue providing the public with safe drinking water, including projects to replace aging infrastructure;

(2) projects to correct exceedances of the health standards established by the Act;

(3) projects to consolidate water supplies where the supplies have an inadequate quantity of water, the water supply is contaminated or the system is unable to maintain compliance with the national primary drinking water regulations for financial or managerial reasons and the consolidation will achieve compliance;

(4) purchase of capacity in another system if the purchase is part of a consolidation plan and is cost-effective considering buy-in fees and user fees;

(5) projects to restructure a system if the system is not in compliance with the primary drinking regulations or the applicant lacks the technical, managerial and financial capability to maintain the system, if the restructuring will return and maintain the system in compliance with the Act, §1452 (a)(3)(B).

(b) Projects proposed for public water systems for which applicants do not have the technical, managerial, and financial capacity to maintain the system are not eligible for assistance unless the requirements of subsection (a) (5) of this section are met.

(c) Projects are not eligible to receive DWSRF funds if the primary purpose of the project is to supply or attract growth. If the primary purpose is to solve a compliance or public health problem,

the entire project, including the portion necessary to accommodate a reasonable amount of growth over its useful life, is eligible.

§371.18. Capitalization Grant Requirements for Applicants.

All projects which receive assistance from the fund under this chapter shall satisfy the following federal requirements as they apply:

- (1) National Environmental Policy Act of 1969, PL 91-190;
- (2) Archeological and Historic Preservation Act of 1974, PL 93-291;
- (3) Clean Air Act, 42 U.S.C. 7506(c);
- (4) Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq.;
- (5) Coastal Zone Management Act of 1972, PL 92-583, as amended;
- (6) Endangered Species Act, 16 U.S.C. 1531, et seq.;
- (7) Executive Order 11593, Protection and Enhancement of the Cultural Environment;
- (8) Executive Order 11988, Floodplain Management;
- (9) Executive Order 11990, Protection of Wetlands;
- (10) Farmland Protection Policy Act, 7 U.S.C. 4201 et seq.;
- (11) Fish and Wildlife Coordination Act, PL 85-624, as amended;
- (12) National Historic Preservation Act of 1966, PL 89-665, as amended;
- (13) Safe Drinking Water Act, §1424(e), PL 92-523, as amended;
- (14) Wild and Scenic Rivers Act, PL 90-542, as amended;
- (15) Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended;
- (16) Section 306 of the Clean Air Act and §508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans;
- (17) Age Discrimination Act, PL 94-135;
- (18) Civil Rights Act of 1964, PL 88-352;
- (19) Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act;
- (20) Executive Order 11246, Equal Employment Opportunity;
- (21) Executive Orders 11625 and 12138, Women's and Minority Business Enterprise;
- (22) Rehabilitation Act of 1973, PL 93-112 (including Executive Orders 11914 and 11250);
- (23) Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646;
- (24) Executive Order 12549, Debarment and Suspension; and
- (25) The Wilderness Act, 16 U.S.C. 1131 et seq.

§371.20. Intended Use Plan.

(a) Each fiscal year the board shall prepare an intended use plan to meet the requirements of the Act and to assist the board in its financial planning. The intended use plan will identify projects anticipated to receive assistance from that year's available funds. The list of projects by priority ranking included in the intended use plan may also serve as the comprehensive project priority list required by the Act.

(b) The process for listing projects in the intended use plan, will be as follows.

(1) On or before 1 April each year the executive administrator will solicit project information from eligible applicants desiring to have their projects placed on the subsequent year's intended use plan. The required information will consist of:

- (A) a description of the proposed project;
- (B) county map showing location of service area;
- (C) estimated total project cost, certified by a registered professional engineer;
- (D) estimated project schedule; and
- (E) population currently served by the applicant.

(2) To be included in the draft intended use plan, the applicant must submit the required information signed by a representative of the applicant not later than June 1 of each year.

(3) After a public hearing, the intended use plan and project priority list will be presented to the board for consideration at a regularly scheduled meeting.

(4) Public notice shall be given 30 days prior to the hearing and the comment period shall remain open 30 days following the hearing.

(c) Applications for funding from a particular fiscal year may be considered for funding at any time between the date of establishment of the funding line for that year's intended use plan as described in §371.21 of this title (relating to Criteria and Methods for Distribution of Funds) and the date of establishment of the funding line for the subsequent year's intended use plan.

(d) Any funds from a particular intended use plan which have not been committed by board action when the funding line for a subsequent intended use plan is established will be included in the funds available to be committed from the subsequent intended use plan.

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

Issued in Austin, Texas, on February 25, 1997.

TRD-9702674

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

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For further information, please call: (512) 463-7981

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Application for Assistance

31 TAC §§371.31-371.39

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

§371.35. Required Environmental Review and Determinations.

(a) General. The applicant's preparation of the environmental information and the executive administrator's review and issuance of a determination forms an integral part of the planning process required of any potential applicant to the fund. There are three levels of environmental information required, varying according to the nature and scope of the project and the environment in which it is proposed. Correspondingly, the appropriate level of review will be conducted by the board and formal determinations documenting the review are issued. The categorical exclusion (CE) is directed toward those applicants proposing only minor rehabilitation or functional replacement of existing equipment. Although the environmental information required is small, the proposed project must fit a narrow range of criteria defined in paragraph (1)(A) of this subsection. The CE must be revoked and an environmental information document (EID) must be prepared if the project is subsequently modified so as to exceed the limits of the criteria. The majority of applicants will prepare an EID, developed in accordance with guidance available from the board. In addition to a greater amount of information to be supplied by the applicant, a public hearing must be held on the proposed project and the determination, a finding of no significant impact (FNSI), is also subject to public comment for a period not less than 30 days following its issuance. All applicants whose proposed projects do not meet the criteria for either a CE or environmental impact statement (EIS) must prepare an EID. Although there are other criteria involved, as described in paragraph (1)(C) of this subsection and subsection (d)(3) of this section, an EIS is usually required of those projects that are so major in scope or involve such environmentally sensitive areas (i.e., floodplains, endangered species habitat, etc.) that the proposed project may have significant adverse social or environmental impacts. An EIS requires close coordination and involvement of the board and other agencies in its preparation and results in a record of decision (ROD). The board's staff shall endeavor to provide guidance as to the appropriate level of environmental information to applicants during the pre-planning process. All applicants are urged, however, to review the criteria and contact the board's staff, particularly if there is doubt as to the level of environmental information that is appropriate to the proposed project. Based on the environmental information, the executive administrator will conduct an independent and interdisciplinary environmental review consistent with the National Environmental Policy Act (NEPA) of all projects funded through the DWSRF. This review will further insure that the proposed project will comply with the applicable local, state, and federal laws and board rules relating to the protection and enhancement of the environment. Based upon the staff's review, the executive administrator will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determinations will include mitigative provisions recommended to be applied as a condition of receiving financial assistance. Funds will not be released for building until a final environmental determination has been made. Proposed projects using the pre-design funding op-

tion will follow the environmental review procedures described under paragraph (2)(C) of this subsection.

(1) Basic environmental determinations. There are three basic environmental determinations that will apply to projects proposed to be implemented with assistance from the fund. These are: a determination to categorically exclude a proposed project from a formal environmental review, a FNSI based upon a formal environmental review supported by an EID, and a determination to provide or not provide financial assistance based upon a ROD following the preparation of an EIS. The appropriate determination will be based on the following criteria.

(A) The CE determination applies to categories of projects that have been shown over time not to entail significant impacts on the quality of the human environment.

(i) Proposed projects which meet the following criteria may be categorically excluded from formal environmental review requirements.

(I) The proposed project is directed solely toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of treatment or the capacity of the works. Examples include replacement of existing distribution lines within the same rights-of-way or easements, rehabilitation of existing equipment and structures, and the construction of structures on existing sites.

(II) The proposed project is in a community of less than 10,000 population and is for minor expansions or upgrading of existing systems.

(ii) CE's will not be granted for proposed projects that entail:

(I) the construction of new distribution lines;

(II) providing capacity for a population 30% or greater than the existing population;

(III) known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; or

(IV) the construction of facilities which will not be, or apparently will not be, cost-effective or are likely to cause significant public controversy.

(B) The FNSI will be based upon an environmental review by the staff supported by an EID prepared by the applicant in conformance with guidance developed by the executive administrator. Based upon its review, the staff will prepare an environmental assessment (EA) resulting in the issuance of either a FNSI or a public notice that the preparation of an EIS will be required. All applicants whose projects do not meet the criteria for either a CE or EIS will be required to prepare an EID. The executive administrator's issuance of a FNSI will be based upon an EA documenting that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(C) The ROD may only be based upon an EIS prepared in conformance with the format and guidelines described in subsection (b)(3) of this section. An EIS will be required when the executive administrator determines any of the following:

(i) the proposed project will significantly affect the pattern and type of land use or growth and distribution of the population;

(ii) the effects of a proposed project's construction or operation will conflict with local or state laws or policies;

(iii) the proposed project may have significant adverse impacts upon:

(I) wetlands;

(II) floodplains;

(III) threatened and endangered species or their habitats;

(IV) cultural resources including parklands, preserves, other public lands, or areas of recognized scenic, recreational, agricultural, archeological, or historic value;

(iv) the proposed project will displace population or significantly alter the characteristics of existing residential areas;

(v) the proposed project may directly or indirectly (e.g., through induced development) have significant adverse effect upon local ambient air quality, local noise levels, surface and ground water quantity or quality, fish, shellfish, wildlife or their natural habitats;

(vi) the proposed project may generate significant public controversy; or

(vii) the water supply is proposed to be obtained from a surface or groundwater source where the characterization of quality and/or quantity is being challenged or for which the proposed withdrawal might adversely affect the quality or quantity.

(2) Other determinations that are required of the board.

(A) Recognizing that a project may be altered at some time after an environmental determination on the proposed project has been issued, the executive administrator will provide that, prior to approval of the alterations, the contract documents, loan application, or related documents will be examined for consistency with the environmental determination. If minor inconsistencies are found and the amended project will not entail adverse environmental impacts different from those previously identified, the project may be allowed to proceed without additional formal environmental review. When substantive inconsistencies are found or new adverse environmental impacts may result, the executive administrator will revoke a CE and require the preparation of an EID or an EIS, consistent with the criteria of paragraph (1) of this subsection, or require the preparation of amendments to an EID or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the executive administrator will:

(i) reaffirm the original environmental determination through the issuance of a public notice or statement of finding;

(ii) issue a FNSI when a CE has been revoked, or issue a public notice that the preparation of an EIS will be required;

(iii) issue an amendment to a FNSI, or revoke a FNSI and issue a public notice that the preparation of an EIS will be required; or

(iv) issue a supplement to a ROD, or revoke the ROD and issue a public notice that financial assistance will not be provided.

(B) When five or more years have elapsed between the last environmental determination and the submittal of an application to the fund, the executive administrator will re-evaluate the proposed project, environmental conditions and public views, and prior to presentation of the application to the board, proceed in accordance with subparagraph (A) of this paragraph.

(C) For projects using the pre-design funding option, board staff will use preliminary environmental data provided by the applicant, as specified in §371.38 of this title (relating to Pre-Design Funding Option), and make a written report to the executive administrator on known or potential significant social or environmental concerns before an application for pre-design funding is taken to the board. Prior to release of funds for design, these projects must have approval by the board after the appropriate level of environmental review has been conducted during planning, as provided under this section.

(3) Other determinations that are available to the board.

(A) The executive administrator may adopt previous environmental determinations issued by the EPA and other federal agencies whose determinations may be considered to be current and applicable under the environmental review requirements of this section. In so doing, the executive administrator will insure that all mitigative measures specified in the previous determinations are applied as conditions of the loan agreement and that such adoption will be consistent with the requirements of these rules. The executive administrator will adopt the previous determination by means of a statement of findings, when the proposed project and its previous determination are to be adopted without substantial modifications, or in a FNSI which will explain modifications to the proposed project, potential environmental impacts identified during an environmental review, and any mitigative measures proposed in addition to those included in the federal environmental determination to be adopted.

(B) In order to better inform the public, the executive administrator may issue a statement of findings to interested agencies and public groups describing the outcome of a mitigative condition required by an environmental determination.

(b) Required environmental information. A minimum of three copies of all information required in this subsection shall be submitted to the executive administrator.

(1) Applicants seeking a CE for their proposed projects will provide the executive administrator with sufficient documentation to demonstrate compliance with the criteria of subsection (a)(1)(A) of this section. At a minimum, this will consist of:

(A) a brief, complete description of the proposed project and its costs;

(B) a statement indicating that the project is cost-effective and that the applicant is financially capable of constructing, operating and maintaining the facilities; and

(C) a plan map or maps of the proposed project showing:

(i) the location of all construction areas,

(ii) the planning area boundaries, and

(iii) any known environmentally sensitive areas.

(2) An EID must be submitted by those applicants whose proposed projects do not meet the criteria for a CE and for which the executive administrator has made a preliminary determination that an EIS will not be required. The executive administrator will provide guidance on both the format and contents of the EID to potential applicants prior to initiation of planning.

(A) At a minimum, the contents of an EID will include:

- (i) the purpose and need for the project;
- (ii) the environmental setting of the proposed project and the future of the environment without the project;
- (iii) the alternatives to the project as proposed and their potential environmental impacts;
- (iv) a description of the proposed project;
- (v) the potential environmental impacts of the project as proposed including those which cannot be avoided;
- (vi) the relationship between the short term uses of man's environment and the maintenance and enhancement of long term productivity;
- (vii) any irreversible and irretrievable commitments of resources to the proposed project;
- (viii) a description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and
- (ix) documentation of required public participation activities and coordination with appropriate governmental agencies.

(B) Prior to the applicant's adoption of the DWSRF engineering feasibility report, the applicant will hold a public hearing on the proposed project and the EID, and provide the executive administrator with a verbatim transcript of the hearing. The executive administrator will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing. The hearing will be advertised at least 30 days in advance in a local newspaper of general circulation within the area to be impacted by the proposed project. Notice of the public hearing and availability of the documents also will be sent at least 30 days in advance of the public hearing to all local, state, and federal agencies and public and private parties that may have an interest in the proposed project. Included with the transcript will be a list of all attendees, any written testimony, and the applicant's Responsiveness Summary to the issues raised.

(C) The applicant will provide copies of the EID to all federal, state, and local agencies and others with an interest in the proposed project. The executive administrator will provide guidance to the applicant regarding coordination requirements.

(3) The format of an EIS will encourage sound analysis and clear presentation of alternatives, including the no action alternative and the preferred alternative, and their environmental, economic, and social impacts. The following format must be followed by the applicant unless the executive administrator determines there are compelling reasons to do otherwise:

(A) a cover sheet identifying the applicant, the proposed project(s), the program through which financial assistance is requested, and the date of publication;

(B) an executive summary consisting of a 10 to 15 page precis of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

- (i) a description of the existing problem;
- (ii) a description of each alternative;
- (iii) a listing of each alternative's potential environmental impacts, mitigative measures and any areas of controversy; and
- (iv) any major conclusions;

(C) the body of the EIS, which will contain the following information:

- (i) a complete and clear description of the purpose and need for the proposed project and objectives;
- (ii) a balanced description of each alternative considered by the applicant. The descriptions will include the size and location of the facilities and pipelines, land requirements, operation and maintenance requirements, and construction schedules. The alternative of no action will be discussed and the applicant's preferred alternative(s) will be identified. Alternatives that were eliminated from detailed examination will be presented with the reasons for their elimination;

(iii) a description of the alternatives available to the board including:

(I) providing financial assistance to the proposed project;

(II) requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts, or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) providing no financial assistance;

(iv) a description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance, or otherwise effect or have an interest in any of the alternatives;

(v) a description of the affected environment and environmental consequences of each alternative. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomics, land use, and cultural resources of the planning area. The executive administrator will provide guidance, as necessary, to the applicant regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in a manner that will facilitate comparison. The effects of the no action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts.

(4) The draft EIS will be provided to all local, state and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process, along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any such comments pertinent to the project or the EIS. All commentors will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The board's staff will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than 45 days.

(5) Material incorporated into an EIS by reference will be organized to the extent possible into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in subsection (b)(4) of this section.

(6) Preparation of the EIS will be done, at the discretion of the executive administrator: directly by its own staff; by consultants to the board; or by a consultant, contracted by the applicant subject to approval by the executive administrator. In the latter two cases, the consultants will be required to execute a disclosure statement prepared by the executive administrator signifying they have no financial or other conflicting interest in the outcome of the project. When an EIS is prepared by contractors, either in the service of the applicant or the board, the executive administrator will independently evaluate the EIS prior to issuance of the ROD and take responsibility for its scope and contents. The board staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS.

(7) The following public participation requirements are the minimum allowable to the applicant and the board.

(A) Upon making the determination that an EIS will be required of a proposed project, the executive administrator will publish in the Texas Register and distribute a notice of intent to prepare an EIS.

(B) As soon as possible after the notice of intent has been issued, the executive administrator will convene a meeting of the affected federal, state, and local agencies, the applicant, and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the notice of intent or prepared and issued separately. In no case will the notification period be less than 45 days. As part of the scoping meeting the board will, at a minimum:

(i) determine the significance of issues and the scope of those significant issues to be analyzed in depth in the EIS;

(ii) identify the preliminary range of alternatives to be considered;

(iii) identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(iv) discuss the method for EIS preparation and the public participation strategy;

(v) identify consultation requirements of other laws and regulations;

(vi) determine the relationship between the preparation of the EIS and the completion of the DWSRF engineering feasibility report and any necessary arrangements for coordination of the preparation of both documents.

(C) Following the scoping process, the executive administrator will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the applicant and other interested parties.

(D) The draft EIS will be the subject of a formal public hearing and any other public participation activities determined to be appropriate during the scoping process. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph (2)(B) of this subsection except that the advertisement period for the public hearing and comment periods for the draft EIS and final EIS will be no less than 45 days. The executive administrator will publish, in the Texas Register and a newspaper(s) of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least 45 days prior to making any environmental determination.

(c) Environmental Review.

(1) When the executive administrator has determined that an applicant's proposed project may be excluded from a formal environmental review or has determined that a CE is to be rescinded, the executive administrator will prepare a public notice of the determination and the availability of supporting documentation for public inspection. The notice will be published in a local newspaper of community-wide circulation by the applicant. The executive administrator, concurrent with the publication, will distribute the notice to all interested parties.

(2) An environmental review of the proposed project, supported by the applicant's EID, will be conducted by the executive administrator to determine whether any significant impacts are anticipated and whether any changes may be made in the proposed project to eliminate significant adverse impacts. As part of this review, the executive administrator may require the applicant to submit additional information or undertake additional public participation and coordination to support the environmental determination. Based on the environmental review, the executive administrator will prepare an EA, describing:

(A) the purpose and need for the proposed project;

(B) the proposed project, including its costs;

(C) the alternatives considered and the reasons for their rejection or acceptance;

(D) the existing environment;

(E) any potential adverse impacts and mitigative measures;

(F) any proposed conditions to the provision of financial assistance and any means provided for the monitoring of compliance with the conditions; and

(G) a summary of the public comments and response to those comments made by the applicant.

(3) Based upon this EA, the executive administrator will issue a FNSI or issue a notice of intent to prepare an EIS. The FNSI will include a brief description of the proposed project, its costs, any mitigative measures proposed for the applicant as a condition of its receipt of financial assistance, and a statement to the effect that comments supporting or disagreeing with the FNSI may be submitted for consideration by the board. The EA will be attached to the FNSI when mitigative measures are specified by conditions of the financial assistance. The FNSI will be distributed to all parties, governmental entities, and agencies that may have an interest in the proposed project. No action regarding approval of the DWSRF engineering feasibility report will be taken by the executive administrator for at least 30 days after the issuance of the FNSI. Additionally, except for projects utilizing the pre-design option under §371.38 of this title (relating to Pre-Design Funding Option), no funds for building will be released for at least 30 days after the issuance of the FNSI. For projects utilizing the pre-design option, approval of the release of funds for planning will be made prior to the issuance of the FNSI, but no approval for release of funds for design or building will be made until at least 30 days after the issuance of the FNSI.

(4) Except for projects utilizing pre-design funding under §371.38 of this title (relating to Pre-Design Funding Option), the executive administrator will prepare a concise public ROD following the public hearing on the draft EIS and the comment period on the final EIS and before the decision to approve the DWSRF engineering feasibility report or to provide or deny financial assistance to the proposed project. The ROD will describe those mitigative measures to be taken which will make the selected alternative environmentally acceptable. For projects utilizing the pre-design funding option under §371.38 of this title (relating to Pre-Design Funding Option), the ROD shall be made prior to the board's approval of the release of funds for design.

(d) Application of other laws and authorities. In addition to the requirements of state law and rules, the Act, and the NEPA, the board must, as required by the initial guidance for the state water pollution control revolving fund and the drinking water capitalization grant agreement, insure that each project proposed to receive DWSRF financial assistance complies with the following federal laws and authorities respecting the human environment: the Archeological and Historic Preservation Act of 1974, Public Law 93-191; the Historic Sites Act; the Clean Air Act, 42 United States Code 7506(c); the Coastal Barrier Resources Act, 16 United States Code 3501 et seq., the Coastal Zone Management Act of 1972, Public Law 92-583, as amended; the Endangered Species Act, 16 United States Code 1531 et seq.; Executive Order 11953, Protection and Enhancement of the Cultural Environment; Executive Order 11988, Floodplain Management; the Flood Disaster Protection Act of 1973, Public Law 93-234; Executive Order 11990, Protection of Wetlands; the Farmland Protection Policy Act, 7 United States Code 4201 et seq.; the Fish and Wildlife Coordination Act, Public Law 85-624, as amended; the National Historic Preservation Act of 1966, Public Law 89-665, as amended; the Safe Drinking Water Act, §1424(e), Public Law 92-523, as amended; the Wild and Scenic Rivers Act, Public Law 90-542, as amended; and the Wilderness Act, 16 U.S.C. 1131 et seq. Because particular federal and/or state agencies are charged with the enforcement of or permitting under many of these laws and authorities, the executive administrator will provide guidance

to applicants to the fund regarding consultation requirements and will encourage proper coordination of project planning with the appropriate agencies. Because of their complexity and critical importance to the board's administration of the fund, the board has adopted the following sections to effect proper compliance with the requirements of the Flood Disaster Protection Act of 1973, the Coastal Barrier Resources Act, and Executive Order 11988.

(1) The board will not provide financial assistance from the DWSRF for any project element that is proposed to be constructed in a floodplain when the applicant's community is sanctioned by the Federal Emergency Management Agency (FEMA) in its administration of the National Flood Insurance Program, pursuant to the requirements of the Flood Disaster Protection Act of 1973, Public Law 93-234.

(2) The board will not provide financial assistance from the fund to any entity proposing construction in or extension or expansion of water service into any area within the Coastal Barrier Resources System other than those permitted by the Coastal Barrier Resources Act, 16 United States Code 3501 et seq.

(3) Pursuant to the requirements of Executive Order 11988, the board will avoid direct and indirect support of development in floodplains wherever there is a practicable alternative. Therefore, both to preserve the significant natural functions and values of floodplains and to protect human health and safety.

(A) The board may provide financial assistance from the fund for the transportation or treatment of drinking water in a floodplain only when the proposed project will provide service to:

- (i) areas of existing development in a floodplain;
- (ii) facilities such as marinas which, by their nature, must be located in floodplains;
- (iii) areas of projected growth if an EID demonstrates that the proposed development will be consistent with FEMA's floodplain management criteria for flood prone areas (40 Code of Federal Regulations 60.3) and will have no significant impacts on natural functions and values of floodplains;

(iv) areas of projected growth if an EIS demonstrates that there is no practicable alternative to such growth, that such growth will be consistent with the floodplain management criteria cited in clause (iii) of this subparagraph and that the benefits of such growth outweigh its costs to the natural functions and values of the effected floodplains or risks to human health and safety.

(B) When regional systems are proposed, the board will require the regional authority and the member entities to demonstrate compliance with these rules.

(C) For the purposes of this subsection, the following definitions will apply:

(i) Areas of existing development - All or part of the project planning area which, at the time of the board's issuance of its environmental determination, is:

- (I) occupied by existing structures or facilities;
- (II) substantially surrounded by existing structures and facilities and which serves no significant independent natural floodplain function; or

(III) characterized by substantial investment in public infrastructure (e.g., roads and utilities are available to individual users) but which is only partially occupied by structures or facilities.

(ii) Floodplain or 100-year floodplain - Those low-land, relatively flat areas usually adjoining inland or coastal waters that have a 1% or greater chance of flooding in any given year. In determining these areas, the applicant will use flood insurance rate maps or flood hazard boundary maps approved by FEMA. Where these maps are unavailable, the applicant should produce its own map(s) delineating the 100-year floodplain and showing 100-year flood elevations. Such maps should be prepared in accordance with FEMA's Guidelines and Specifications for Study Contractors.

(iii) Natural functions and values of the floodplain include:

- (I) maintenance of water quality;
- (II) transport, storage, and absorption of floodwaters;
- (III) groundwater recharge;
- (IV) flow of debris;
- (V) wildlife habitat;
- (VI) cultural and historical resource repository;
- (VII) agricultural resources; and
- (VIII) aesthetic resources.

(D) The board will, as appropriate and consistent with the requirements of these rules and Executive Order 11988, require assurances or include conditions to the provision of DWSRF financial assistance to insure compliance with these rules.

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

Issued in Austin, Texas, on February 25, 1997.

TRD-9702675
Craig D. Pedersen
Executive Administrator
Texas Water Development Board
Effective date: March 18, 1997
Proposal publication date: January 14, 1997
For further information, please call: (512) 463-7981

Board Action on Application

31 TAC §371.51, §371.52

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

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

Issued in Austin, Texas, on February 25, 1997.

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Craig D. Pedersen
Executive Administrator
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Engineering Design

31 TAC §371.61, §371.62

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

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.

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Prerequisites to Release of Funds

31 TAC §371.71, §371.72

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

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

Issued in Austin, Texas, on February 25, 1997.

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Craig D. Pedersen
Executive Administrator
Texas Water Development Board
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For further information, please call: (512) 463-7981

Building Phase

31 TAC §§371.81-371.89

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

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

Issued in Austin, Texas, on February 25, 1997.

TRD-9702679

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

Effective date: March 18, 1997

Proposal publication date: January 14, 1997

For further information, please call: (512) 463-7981

Post Building Phase

31 TAC §§371.101, §371.102

The new sections are adopted under the authority of the Texas Water Code, 6.101 and 15.605 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State and specifically the SRF Program.

§371.102. Final Accounting.

Upon completion of the project and after the applicant submits the final funds requisition, a final accounting will be made to the executive administrator. The applicant will retain all DWSRF construction records for three full state fiscal years following the submission of the final funds requisition.

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

Issued in Austin, Texas, on February 25, 1997.

TRD-9702680

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

Effective date: March 18, 1997

Proposal publication date: January 14, 1997

For further information, please call: (512) 463-7981

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System

Chapter 87. Deferred Compensation

34 TAC §§87.1, 87.3, 87.5, 87.17

The Employees Retirement System of Texas (ERS) adopts amendments to §§87.1, 87.3, 87.5, and 87.17, concerning the Deferred Compensation Program, without changes to the

proposed text as published in the December 13, 1996, issue of the *Texas Register* (21 TexReg 11938).

These rules are being adopted to implement changes in federal laws concerning deferred compensation plans that were recently enacted by the Small Business Job Protection Act of 1996.

The changes include the indexing of contribution limits, permitting inservice distributions in certain limited situations, and allowing participants to make a one-time election to change their distributions date.

No comments were received regarding adoption of the amendments.

These amendments are adopted under Government Code, Title 6, Subtitle A, Chapter 609 §609.508, which provides authorization for the board to adopt rules, regulations, plans, and procedures to carry out the purposes of this Act.

Statutes affected by these proposed amendments are Government Code, Title 6, Subtitle A, Chapter 609, Subchapter C.

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

Issued in Austin, Texas, on February 28, 1997.

TRD-9702854

Sheila W. Beckett

Executive Director

Employees Retirement System

Effective date: March 21, 1997

Proposal publication date: December 13, 1996

For further information, please call: (512) 867-3336

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 94. Nurse Aides

40 TAC §§94.2-94.13

The Texas Department of Human Services (DHS) adopts amendments to §§94.2-94.13. Sections 94.2, 94.3, 94.5-94.8, 94.10, 94.11, and 94.13 are adopted without changes to the proposed text as published in the October 22, 1996, issue of the *Texas Register* (21 TexReg 10422). The text will not be republished. Sections 94.4, 94.9, and 94.12 are adopted with changes.

Justification of the amendments is to promote Nurse Aide Training and Competency Evaluation Programs (NATCEPs) continued training of nurse aides and DHS's certification of nurse aides by making technical language changes, permitting alternative settings for clinical training, identifying the hearings process to dispute loss of NATCEP approval, and clarifying the requirements for the recertification of nurse aides.

The amendments will function by providing updated rules to facilitate the training and certification of nurse aides and the processes of approving and withdrawing NATCEPs.

The department received comments regarding adoption of the amendments from the Texas Association for Home Care and Texas Health Care Association. A summary of the comments and DHS's responses follow.

Comment: Home and community support services agencies and the public do not have a regulatory mechanism through which to report certified nurse aides' alleged acts of abuse, neglect or misappropriation of client property in home care settings to DHS for investigation. DHS should amend the language in §94.3(g) and §94.11(c) to require home and community support services agencies to report findings of abuse, neglect or misappropriation against certified nurse aides in home care settings to DHS.

Response: DHS does not regulate home and community support services agencies. Only the Texas Department of Health (TDH) has the authority to investigate reports of alleged acts by employees of home and community support services agencies.

Comment: A laboratory setting approved for the clinical portion of the nurse aide training program under §94.4(c)(3)(A) will not allow hands on experience with nursing home residents. Will the clinical skills exam occur in the approved laboratory setting or a nursing facility?

Response: A NATCEP using an approved laboratory setting or another approved setting must provide individuals on whom trainees must practice and demonstrate clinical competency in nurse aide skills as stated in §94.4(c)(3). A NATCEP may use the approved laboratory setting or another approved setting for the skills exam.

Comment: Remove the requirement in §94.4(c)(3)(A) that an approved laboratory or other setting for the clinical portion of the NATCEP must have tubs and showers. This requirement limits clinical setting options available to the NATCEP. For example, NATCEPs at junior colleges could not comply with the requirement.

Response: DHS views the tubs or showers as necessary equipment on which a trainee performs major clinical skills. DHS will not remove this requirement.

Comment: In §94.4(c)(3)(A), expand "other health care site" to include "any other site" that meets the equipment qualifications for clinical training but only if a nursing facility, laboratory setting or other health care site is unavailable.

Response: DHS agrees to include "any other site" which meets the training equipment requirements and DHS would approve such a site for clinical training only if a nursing facility, laboratory setting, or other setting was unavailable.

Comment: Add language to §94.4(c)(3)(A) stating that the approval of a laboratory setting or other setting should only be granted if no other setting, such as a nursing home or hospital, is available within a five mile radius of the facility. This requirement will impress upon a NATCEP the importance of trying to secure health care setting for the clinical training.

Response: DHS disagrees with the comment. Language in §94.4(c)(3)(A) already stresses the importance of trying to secure an other setting, such as a nursing home or hospital, over a laboratory setting. The last sentence of the section states, "A NATCEP must provide documentation with its application that shows the NATCEP attempted to secure a facility with NATCEP approval or other setting, which must be identified by type of setting, name and address, for clinical training prior to securing clinical training in a laboratory setting or any other setting."

Comment: Subsection 94.9(c)(1)(B) incorrectly states that a facility may submit for an informal dispute resolution (IDR) on the behalf of a skills examiner losing approval by referring to subsection (b). Delete the reference to subsection (b).

Response: DHS agrees and has deleted the reference to subsection (b).

Comment: All facilities that lose NATCEP approval should have the opportunity for an IDR as provided in Chapter 42 in the Code of Federal Regulations (CFR) in §§431.151-431.153 or §498. Amend §§94.9(c)(1)(B) and 94.9(d) to provide this opportunity for all facilities.

Response: DHS does not agree with this recommendation. Section 488.331 in 42 CFR identifies the IDR as the process for disputing survey findings, while §§431.151-431.153 and §498 in 42 CFR identify formal hearings as the process for appealing remedies. In the preamble to the final enforcement rules in the Federal Register (11/10/94, pp. 56228-56229), the Health Care Financing Administration (HCFA) recommends limiting appeals of a NATCEP loss as a consequence of a remedy to an IDR. As the result of HCFA's recommendation and §431.152(f)(2) not providing a formal appeal for the loss of a NATCEP resulting from remedies, DHS provides facilities the opportunity to dispute the consequence of NATCEP loss through the same IDR at which a facility disputes the survey findings. Also, since 42 CFR does not provide the opportunity for a facility to dispute or appeal a noncompliance with the NATCEP or CEP standards, DHS does provide a state level formal appeal for such underlying factors resulting in loss of NATCEP. DHS does not see the need for providing an IDR for noncompliance factors leading to NATCEP loss that are appealable through an formal appeal.

Comment: Sections 94.9(d) and 94.9(e)(3) state that no facility will be "entitled to a formal hearing as provided by §§431.151-431.153, Subpart D or 42 CFR and part §498 of 42 CFR." Change the word "and" to "or" between the CFR citations.

Response: DHS agrees and has made the change.

Comment: Section 94.9(e) should permit all facilities the right to request a formal hearing at the state level to contest the loss of NATCEP approval. A facility that is entitled to a formal hearing as provided by §§431.151-431.153, Subpart D of 42 CFR will not be given a formal opportunity to contest the loss of NATCEP approval. In 42 CFR 431.153(b)(3) it specifically provides that loss of approval of NATCEP is not subject to appeal as part of a formal hearing conducted under that subpart. Similarly, 42 CFR 498.3(d)(10)(iii) provides that the loss of approval of a NATCEP is not an initial determination and, therefore, cannot be reviewed by the administrative law judge. There is no rational basis for denying some facilities the opportunity to formally contest the

loss of a NATCEP while denying other facilities this opportunity based on whether the facility is entitled to a formal hearing to address other issues.

Response: DHS sees facilities as having due process requirements met by being able to appeal the underlying factors that lead to NATCEP loss as provided in 42 CFR §§431.151-431.153. In addition, in Regional Survey and Certification Letter Number: 96-06, HCFA, in consultation with its Office of General Council, determined that the withdrawal of approval of NATCEP/CEP is an automatic statutory consequence of the imposition of a remedy or is predicated on the existence of a condition such as a nurse staffing waiver or extended survey. A facility may appeal a remedy but may not appeal the consequence of a remedy.

Comment: Subsection §94.9(d) appears to provide that a facility that is entitled to a formal appeal under the federal rules, i.e., for a remedy or denial of payment for new admissions or monetary penalties that has actually been imposed would not be allowed to appeal a NATCEP withdrawal, but would be limited to rebutting the survey findings only through the IDR process. The commenter does not agree with this. Even if the facility can appeal a remedy under the federal rules, it cannot contest the NATCEP withdrawal at the HCFA hearing so this essentially leaves the facility without any meaningful due process since the IDR cannot be called due process. Further, the Texas Administrative Procedures Act (APA) requires a hearing on the denial of a license, certificate or permit no matter what federal law says. This appears to be a violation of the APA.

Response: DHS does not agree with the comment. First, §94.9(d) does not limit rebutting the survey findings through an IDR. The subsection states that a facility may dispute a NATCEP withdrawal during the same IDR at which it disputes the survey findings. However, a facility still has the right to appeal remedies resulting from the survey findings at a formal hearing as provided in 42 CFR §§431.151-431.153 or §498. Section 94.9 addresses the processes for disputing loss of NATCEP approval and does not address the processes for the disputing of survey findings or remedies. Second, the department is not violating the APA because NATCEP approval is not equivalent to a license, certificate or permit.

Comment: Subsection 94.9(e) indicates that a facility not entitled to a formal appeal under federal law is entitled to a formal appeal of the NATCEP loss. Apparently, that would include facilities that had NATCEPs withdrawn due to an extended survey, had a temporary manager appointed, or had been closed can appeal since no formal hearing is provided for those adverse actions under the federal rules. What happens if, as is often the case, the provider has both an extended survey (which cannot be appealed) and monetary penalties (which can be appealed)? Which rules applies?

Apparently, facilities that could file an appeal of a NATCEP withdrawal can also file an IDR. However, they must also begin the formal appeal process long before the IDR process must be completed (i.e., formal appeal must be filed within 20 days of notice of denial). If an IDR is filed, the appeal should not be due until after the IDR has been ruled on.

Response: First, in the case of both an extended survey and monetary penalties, the appeal rules for the monetary

penalties would apply to the facility, which has the opportunity to request an IDR to dispute the survey findings leading to the monetary penalties and subsequent loss of NATCEP. Second, the comment is incorrect that the formal appeal process begins long before the IDR process must be completed. The department does not send the notice of NATCEP loss withdrawal until the IDR is completed.

Comment: The department should delete the sentence in §94.9(f)(2) stating, "If the right to an IDR or formal hearing is deemed to be waived, the proposed action will be taken." It is self-evident that a facility that waives its right to a formal appeal will lose the approval of its NATCEP as stated in the notice letter from the Department. Failure to request IDR should not result in the immediate loss of the NATCEP, if the facility has a formal hearing pending pursuant to §§431.151-431.153, Subpart D of 42 CFR or part §498 of 42 CFR. In such cases, approval of the NATCEP should not be withdrawn or denied until a final administrative order upholding the findings of noncompliance that led to the extended/partial extended survey or other remedy that is the basis for the proposed withdrawal is issued.

Response: DHS disagrees with the recommended deletion, but agrees to amend §94.9(f)(2) and add §§94.9(g) and 94.9(c)(4) to better clarify when a proposed action will be taken. The amendment will state that a facility waiving all of its available administrative appeals will result in the proposed action being taken. The text that was in §94.9(f) is now reformatted as §94.9(h).

Comment: Section 94.12 is too vague. Spell out the criteria for retraining and retesting.

Response: DHS agrees and has added language to §94.12 to clarify the criteria.

In addition, DHS added a Social Security Administration cite to §94.4(f)(1) to aid users of the rule and has corrected a typographical error in §94.6(a)(4).

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32; the Health and Safety Code, Chapter 250; and Texas Government Code, §531.021. The Human Resources Code, Chapters 22 and 32, provide the department with the authority to administer public and medical assistance programs. The Health and Safety Code, Chapter 250, provides the department with the authority to administer the nurse aide program and registry. The Texas Government Code, §531.021, provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement the Human Resources Code, §§22.001-22.030 and §§32.001-32.042, and the Health and Safety Code, §§250.001- 250.009.

§94.4. Nurse Aide Training and Competency Evaluation Program Requirements.

(a) (No change.)

(b) A person or entity which desires to offer a NATCEP shall file an application for approval on official forms prescribed by the Texas Department of Human Services (department) which shall include but not be limited to:

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

(3) the name of the program director and program instructor and verification that they meet the requirements in §94.6 of this title (relating to Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements);

(4) the total number of classroom and clinical hours;

(5) a list of facilities to be used for clinical training and letter(s) of agreement from the facilities signed by the chief executive officer or administrator of the facilities, if cooperative agreements are made between the NATCEP and the facility unless the facility is exempt under subsection (c) of this section;

(6) the location of the classroom course and verification that the classroom and skills training room(s) including adequate space, cleanliness, safety, lighting, and temperature controls;

(7) verification that the NATCEP shall follow the rules and the curriculum established by the department and shall agree to permit unannounced visits by the department or its designee; and

(8) additional information and supporting documentation requested by the department.

(c) An applicant for a NATCEP may request an exemption from clinical training in a facility by filing an application on an official form which:

(1) is submitted as a non-facility-based program;

(2) is established to train nurse aides for a facility which is prohibited from participation in the training and testing of nurse aides under subsection (f) of this section or under §94.9 of this title (relating to Withdrawal of Approval of a Nurse Aide Training and Competency Evaluation Program, Program Director or Skills Examiner. The name of the prohibited facility must be submitted on the application; and

(3) includes, as an alternative to clinical training in a facility, 24 clock hours of supervised skills training in a laboratory or other settings in which trainees, under the direct supervision of a licensed nurse, must practice and demonstrate competency while performing skills on an individual, except for pericare and rectal temperatures.

(A) The laboratory setting, other setting, such as a facility with NATCEP approval, licensed personal care home, hospital, or health care setting, and any other site must provide equipment, but not limited to beds, chairs, tables, sinks, tubs or showers, and supplies required to perform all of the skills listed on the nurse aide performance record. Manikins must be available for performing skills such as pericare and rectal temperatures. The department requires documentation with the NATCEP application that shows the NATCEP attempted to secure a facility with NATCEP approval or other setting, which must be identified by type of setting, name and address, for clinical training prior to securing clinical training in a laboratory setting or any other site.

(B) The laboratory or other setting must ensure a safe and effective learning environment for trainees and volunteer subjects.

(d) If an entity or person desires to offer more than one NATCEP for which the required number of classroom hours or the location of the classroom course differs, the entity or person shall file a separate application for each of these separate NATCEPs.

(e) A course which exceeds both the curriculum content and hours required by the department must teach the NATCEP curriculum in one distinct and separate segment of the longer course.

(f) A NATCEP offered by or in a facility shall not be approved by the department if within the previous two years, the facility:

(1) has operated under a waiver under 42 United States Code (USC), §1395i-3(b)(4)(C)(ii)(II) (Social Security Act (SSA)), §1819(b)(4)(C)(ii)(II) or under 42 USC, §1396r(b)(4)(C)(ii) (SSA, §1919(b)(4)(C)(ii) relating to the services of a registered nurse;

(2) has been subject to an extended (or partial extended) survey under 42 USC, §1395i-3(g) (SSA, §1819(g)) or under 42 USC, §1396r(g) (SSA, §1919(g));

(3) has been assessed a civil money penalty described in 42 USC, §1395i-3(h) (SSA, §1819(h)) or in 42 USC, §1396r(h) (SSA, §1919(h)) of not less than \$5,000; or

(4) has been subject to:

(A) denial of payment under 42 USC §1395i-3(h) (SSA, §1819(h)) or under 42 USC, §1396r(h) (SSA, §1919(h));

(B) appointment of temporary management under 42 USC §1395i-3(h) (SSA, §1819(h)) or under 42 USC, §1396r(h) (SSA, §1919(h));

(C) termination of participation under 42 USC §1395i-3(h)(4) (SSA, §1819(h)(4)) or under 42 USC, §1396r(h)(1)(B)(i) (SSA, §1919(h)(1)(B)(i)); or

(D) closure of the facility under 42 USC §1396r(h)(2) (SSA, §1919(h)(2)).

(g) Each NATCEP must teach a minimum of 75 clock hours of training, including at least:

(1) 51 clock hours of classroom training defined as classroom and skills training which does not involve direct care of residents by trainees; and

(2) 24 clock hours of clinical training defined as hands on care of residents in a nursing facility or an alternative to clinical training as described in subsection (c) of this section by trainees under the direct supervision of a licensed nurse.

(h) Each NATCEP must teach the curriculum established by the department including:

(1) at least 16 introductory hours of training in the following areas prior to any direct contact with a resident:

(A) communication and interpersonal skills;

(B) infection control;

(C) safety/emergency procedures including the Heimlich maneuver;

(D) promoting residents' independence; and

(E) respecting residents' rights;

(2) personal care skills;

(3) basic nursing skills;

(4) mental health and social service needs;

- (5) care of cognitively impaired residents;
- (6) basic restorative services; and
- (7) residents' rights.

(i) A NATCEP must have an approved program director and program instructor who meets the requirements of §94.6(a) and (b) of this title (relating to Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements) at the time of initial approval and during the time training is occurring.

(j) A NATCEP must ensure that trainees:

- (1) complete at least the first 16 hours of training (Section I of the curriculum) prior to any direct contact with a resident;
- (2) do not perform any services for which they have not been trained and have been found to be proficient by an instructor;
- (3) who are performing skills on individuals as part of a NATCEP are under the direct supervision of a licensed nurse;
- (4) who are providing services to a resident are under the general supervision of a licensed nurse; and
- (5) are clearly identified as trainees during the clinical training.

(k) A NATCEP must notify the department of any change in the information presented in an approved application. Such changes must be approved by the department prior to the effective date of the change. The department will conduct a review of the program if it determines that the changes are substantive.

(l) Each NATCEP must use a department performance record to account for major duties/skills taught, trainee performance of duty/skill, satisfactory or unsatisfactory performance, and name of instructor supervising the performance. At the completion of the NATCEP, the trainee and his employer, if applicable, will receive a copy of the performance record.

(m) The NATCEP must maintain records which must be available to the department or its designees at any reasonable time and which include for each new session of the NATCEP:

- (1) dates and times of all classroom and clinical hours;
- (2) full name and social security number of each trainee;
- (3) attendance record of each trainee; and
- (4) final course grade for the training portion of the NATCEP indicating pass or fail for each trainee.

(n) Each NATCEP must meet the requirements of this chapter and include the competency evaluation program specified in §94.5(b)-(n) of this title (relating to Competency Evaluation Program Requirements).

(o) A nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the nurse aide begins a NATCEP may not be charged for any portion of the NATCEP, including any fees for textbooks or other required course materials.

(p) If an individual does not meet the requirements of subsection (o) of this section, but becomes employed as a nurse aide by, or receives an offer of employment as a nurse aide from a facility not later than 12 months after completing a NATCEP, the

state provides for the reimbursement of costs incurred in completing the NATCEP on a pro rata basis during the period in which the individual is employed as a nurse aide.

(q) The ratio of instructors to trainees in skills and clinical training must ensure that each trainee is provided safe and effective assistance and supervision.

(r) Each NATCEP must primarily provide educational and training opportunities for the trainee(s) rather than primarily provide nursing or nursing-related services to the facility, its residents, or clients.

(s) The graduates' success rate on the examination will be monitored by the department and may be utilized as a criteria for withdrawing NATCEP approval.

(t) The department must approve a NATCEP prior to operation or solicitation or enrollment of trainees.

(u) Department approval of a NATCEP covers only approval of the required curriculum and hours and should not be considered approval of additional content or hours.

(v) An orientation given by a facility to a nurse aide employed in the facility does not constitute a part of a NATCEP.

§94.9. Withdrawal of Approval of a Nurse Aide Training and Competency Evaluation Program, Program Director or Skills Examiner.

(a) The department may withdraw approval of a nurse aide training and competency evaluation program (NATCEP):

(1) as the result of noncompliance with any part of §94.4 (a)-(e) and (g)-(v) of this title (relating to Nursing Aide Training and Competency Evaluation Program Requirements) or any part of §94.5 of this title (relating to Competency Evaluation Program Requirements);

(2) as the result of the facility's refusing to permit unannounced visits by the department; or

(3) for a NATCEP offered by or in a facility, based on §94.4(f) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements).

(b) The department may withdraw approval of a skills examiner because of noncompliance with §94.6 of this title (relating to Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements).

(c) If the department proposes to withdraw approval of a NATCEP or skills examiner, the department must notify the NATCEP or skills examiner by mail at the last known address as shown in the department's records or by personal delivery.

(1) The notice must state the facts or conduct alleged to warrant the action and state that:

(A) the skills examiner may request a formal hearing;

or

(B) the entity providing the NATCEP, if entitled under subsection (e) of this section, may request a formal hearing, or, if entitled under subsection (d) of this section, may request a review of the NATCEP withdrawal during the informal dispute resolution (IDR) available to refute the adverse survey action resulting in the withdrawal of NATCEP approval.

(2) A written request for an IDR must be submitted as provided in §19.2147 of this title (relating to Informal Dispute Resolution). The department will hold the IDR pursuant to the applicable provisions of §19.2147 of this title (relating to Informal Dispute Resolution).

(3) A written request for a formal hearing must be submitted within 20 days of the date the withdrawal notice is received. The hearing will be held pursuant to the applicable provisions of the department's hearing procedures as provided in §§79.1601- 79.1614 of this title (relating to Formal Appeals).

(4) When an entity providing the NATCEP or a skills examiner is entitled to a formal hearing, the department does not withdraw NATCEP or skills examiner approval unless an adverse action results from the hearing.

(d) A facility may request an IDR if approval of a NATCEP offered by or in a facility is withdrawn based on §94.4(f) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements) and the facility is entitled to a formal appeal of an adverse action which arose from the same survey activity that resulted in the withdrawal of approval of the NATCEP, as provided in 42 Code of Federal Regulations (CFR) §431.153 (relating to Evidentiary Hearing) or Part 498 of 42 CFR (relating to Appeals Procedures for Determinations that Affect Participation in Medicare and for Determinations that Affect the Participation of ICFs/MR and Certain NFs in Medicaid). The IDR the facility may request is the IDR the facility is allowed to request under 42 CFR §488.331 and §19.2147 of this title (relating to Informal Dispute Resolution). This subsection does not entitle a facility to an additional IDR beyond those provided for in 42 CFR §488.331 and §19.2147 of this title (relating to Informal Dispute Resolution). An IDR to refute survey findings is the only appeal available to dispute the withdrawal of approval of a NATCEP under the circumstances described in this subsection. However, if the formal appeal of an adverse action results in the adverse action which caused loss of NATCEP approval being overturned, the facility's NATCEP approval will not be withdrawn. If the facility does request the formal appeal of an adverse action to which it is entitled under 42 CFR §431.153 (relating to Evidentiary Hearing) or Part 498 of 42 CFR (relating to Appeals Procedures for Determinations that Affect the Participation of ICFs/MR and Certain NFs in Medicaid), the department will not take action concerning approval of the facility's NATCEP until the appeal has been completed.

(e) An entity providing a NATCEP may request a formal hearing if approval of a NATCEP is withdrawn:

(1) as a result of noncompliance with any part of §94.4(a)-(e) and (g)-(v) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements) or any part of §94.5 of this title (relating to Competency Evaluation Program Requirements);

(2) as a result of the entity providing the NATCEP refusing to permit unannounced visits by the department; or

(3) for a NATCEP offered by or in a facility, based on §94.4(f) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements) and the facility is not entitled to a formal appeal of an adverse action which arose from the same survey activity that resulted in the withdrawal of approval of the NATCEP, as provided in 42 CFR §431.153 (relating to Evidentiary Hearing) of Part 498 of 42 CFR (relating to Appeals Procedures

for Determinations that Affect Participation in Medicare and for Determinations that Affect the Participation of ICFs/MR and Certain NFs in Medicaid). The facility may request an IDR as part of the survey process as provided in 42 CFR §488.331 and 40 TAC §19.2147 of this title (relating to Informal Dispute Resolution). This subsection does not entitle a facility to an additional IDR beyond those provided for in 42 CFR §488.331 and §19.2147 of this title (relating to Informal Dispute Resolution).

(f) The entity providing the NATCEP or the skills examiner is deemed to have waived the right to either an IDR or a formal hearing, as those rights are set out in this section if:

(1) the entity providing the NATCEP or the skills examiner does not request in writing the IDR or formal hearing; or

(2) the entity providing the NATCEP or the skills examiner fails to appear or be represented at the scheduled IDR or formal hearing. If the right to an IDR or a formal hearing is deemed to be waived, the proposed action will be taken.

(g) The department will take the proposed action toward NATCEP or skills examiners approval if an entity providing the NATCEP or a skills examiner waives all federal and state administrative appeals available to the entity or skills examiner.

(h) Students who have started a NATCEP from which approval is proposed to be or has been withdrawn shall be allowed to complete the NATCEP.

§94.12. Requirements for Recertification.

(a) A certified nurse aide who has had 24 consecutive months during which he or she has neither performed nursing or nursing-related services nor has acted as a nurse aide for monetary compensation loses his or her certification and is removed from active status on the Nurse Aide Registry as stated in §94.11(b) of this title (relating to Registry; Findings; Inquiries).

(b) A person for whom subsection (a) of this section applies:

(1) must successfully complete a new competency evaluation program (CEP); or

(2) may, at his or her option, successfully complete a new nurse aide training and competency evaluation program (NATCEP).

(c) A person for whom subsection (a) of this section applies, and who complies with subsection (b) of this section will be recertified as a nurse aide and be placed back on the Nurse Aide Registry by the Texas Department of Human Services.

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

Issued in Austin, Texas, on February 25, 1997.

TRD-9702683

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: April 4, 1997

Proposal publication date: October 22, 1996

For further information, please call: (512) 438-3765

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in the lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department on Aging

Thursday, March 6, 1997, 2:00 p.m.

4900 North Lamar Boulevard, Brown-Heatly Building, Room 4501
Austin

Options for Independent Living Advisory Committee

AGENDA:

Consider and possibly act on:

- A. Call to order
- B. Minutes of December 10, 1996 meeting
- C. Update on legislative issues at federal and state levels
- D. Planning/work session, including discussion of: possible future revision of Options-related administrative rules; and possible need for future funding distribution recommendations
- E. New business
- F. Adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas (512) 424-6840.
Filed: February 26, 1997, 4:30 p.m.

TRD-9702774

State Aircraft Pooling Board

Friday, March 7, 1997, 6:00 p.m., Rescheduled from March 8, 1997, 11:00 a.m.

4900 Old Manor Road

Austin

Board Meeting

REVISED AGENDA:

1. Call to Order

2. Introductions

3. Approval of Minutes of Board Meeting December 18, 1996

4. Airport Relocation Status

5. Policy Revisions

6. Executive Director's Report

7. Setting of Time and Place of Next Meeting

8. Final Adjournment

Contact: Marcy Speck- 4900 Old Manor Road, Austin, Texas 78723,
(512) 477-8900.

Filed: February 27, 1997, 3:26 p.m.

TRD-9702834

◆ ◆ ◆
Saturday, March 8, 1997, 11:00 a.m.

4900 Old Manor Road

Austin

Board Meeting

AGENDA:

1. Call to Order
2. Introductions
3. Approval of Minutes of Board Meeting December 18, 1996
4. Airport Relocation Status
5. Policy Revisions
6. Executive Director's Report
7. Setting of Time and Place of Next Meeting
8. Final Adjournment

Contact: Marcy Speck- 4900 Old Manor Road, Austin, Texas 78723,
(512) 477-8900.

Filed: February 27, 1997, 10:40 a.m.

TRD-9702795

◆ ◆ ◆
State Board of Barber Examiners

Monday, March 10, 1997, 9:00 a.m.

William P. Hobby Building, 333 Guadalupe, Tower 2, Room 400-A
Austin

Board of Directors

AGENDA:

Opening of meeting; Roll call: Read and possibly approve minutes of February 4, 1997 Board meeting. Old business: Discussion regarding a continuing education program for licensed barbers. Discussion and possible action regarding the failure rate for State Board Examinations and possible solutions, including altering examinations. New Business: Discussion regarding reinstatement of an apprenticeship or assistant barber program. Discussion regarding Senate Bill 719, 75th Legislature. Executive Session: Executive Session under Section 551.071, Texas Government Code, for discussion with Office of Attorney General regarding pending or contemplated litigation under Texas Commission on Human Rights Charge Number 1970235-S. Executive Session: Executive Session under §551.074, Texas Government Code, to hear Texas Commission on Human Rights Charge Number 1970235-S, regarding the State Board of Barber Examiners and the Chairman of the Board. Adjourn.

Contact: B. Michael Rice, 333 Guadalupe, Suite 2-110, Austin, Texas 78701, (512) 305-8475.

Filed: February 28, 1997, 10:27 a.m.

TRD-9702853

◆ ◆ ◆
Texas Commission for the Deaf and Hard of Hearing

Friday, March 7, 1997, 9:00 a.m.

Brown-Heatly Building, Room 7239, 4900 North Lamar

Austin

Board

AGENDA:

Call to Order, Public Comment; Approval of Minutes of January 19, 1997 Meeting; Executive Director's Report; BEI Report including Appointment of BEI Board Member, Appointment of New BEI Evaluators, Approval of Calendar, Approval of Certification, Recertification, Revocation, and Executive Session: Proposed Disciplinary Action Concerning Susanne Burnett; Direct Services Report including Update and Possible Action: TCCD Contract, Follow-up to Commission Retreat, and Hard of Hearing Task Force Members; Information Items; Adjourn.

Contact: Margaret Susman, 4800 North Lamar, #310, Austin, Texas 78756 (512) 451-8494.,

Filed: February 27, 1997, 4:58 p.m.

TRD-9702841

Texas Education Agency (TEA)

Wednesday, March 12, 1997, 8:30 a.m.

8686 Kirby Drive, Sheraton Astrodome Hotel, San Jacinto Room One
Houston

State Parent Advisory Council for Migrant Education

AGENDA:

On Wednesday, March 12, 1997, beginning at 8:30 a.m., the council's agenda is as follows: welcome and introductions; minutes; update of Ed-Flex waiver applications; discussion of parental rights; discussion of policies concerning migratory children; discussion of effective Parent Advisory Councils (PACs); discussion of Texas Assessment of Academic Skills (TAAS) test preparation; status report concerning state PAC Nominations; discussion of state PAC presentation and agenda recommendations for next meeting.

Contact: Frank Contreras, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9067.

Filed: March 3, 1997, 8:23 a.m.

TRD-9702915

◆ ◆ ◆
State Employee Charitable Campaign

Friday, March 14, 1997, 9:00 a.m.

210 Ninth Street

Forth Worth

Local Employee Committee, Tarrant County

AGENDA:

- I. Review applications for Local Campaign Manager
- II. Selection of Local Campaign Manager
- III. Consider selection of additional LEC members
- IV. Review campaign timeline
- V. Begin planning for 1997 campaign.

Contact: Katrina Bailey, 210 Ninth Street, Fort Worth, Texas 76102, (817) 258-8037, FAX (817) 258-8093.

Filed: February 27, 1997, 11:53 a.m.

TRD-9702800

◆ ◆ ◆
Tuesday, March 18, 1997, 10:00 a.m.

2201 19th Street

Lubbock

Local Employee Committee

AGENDA:

- I. Overview of 1996 Campaign
- II. Approval of actual 1996 budget
- III. Review of 1997 LCM Applications
- IV. Approval of 1997 Budget

V. Approval of 1997 Calendar

Contact: Dianna L. Stewart, 2201 19th Street, Lubbock, Texas 79401,
(806) 747-2711, FAX: (806) 747-2716.
Filed: February 27, 1997, 11:53 a.m.

TRD-9702799

Texas Commission on Fire Protection

Saturday-Sunday, March 15-16, 1997, 9:00 a.m.

12675 North Research Boulevard

Austin

Volunteer Fire Fighter Advisory Committee

AGENDA:

1. Election of Officers
2. Reports from staff on the status of revisions to National Fire Protection Association Standards pertaining to self-contained breathing apparatus (NFPA 1981), breathing air sample testing (NFPA 1500), protective clothing (NFPA 1971-1977), and fire fighter training (NFPA 1001).
3. Discussion and possible action on rule amendments relating to testing and certification for completion of a portion or phase of the basic fire suppression curriculum for volunteer fire fighters.
4. Discussion and possible action on rule amendments relating to performance skills testing for volunteer fire fighter certification.
5. Discussion only concerning proposed Sunset legislation relating to paid fire protection personnel and local fire departments and volunteer fire fighters and volunteer fire departments regulated under Government Code, Chapter 419.
6. New matters from committee members and the public which may be placed on the agenda for future committee meetings.
7. Discussion and possible action on future meeting dates, times and agenda items.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78758,
(512) 918-7100.
Filed: February 26, 1997, 11:51 a.m.

TRD-9702757

Thursday-Friday, March 20-21, 1997, 9:00 a.m.

12675 North Research Boulevard

Austin

Fire Protection Personnel Advisory Committee

AGENDA:

1. Discussion and approval of minutes from the meeting held December 5 and 6, 1996.
2. Overview and staff briefing on agenda items.
3. Reports from staff on the status of revisions to National Fire Protection Association Standards

4. Discussion and possible action on changes to 37 TAC Chapter 435.

5. Discussion only on proposed new section in 37 TAC Chapter 437.

6. Discussion and possible action on proposed new 37 TAC 453.

7. Discussion only on amendment to 37 TAC 441.

8. Discussion and possible action on re: the number of hours granted for advance level credit for various NFA courses.

9. Discussion and possible action re: clarification of rules concerning college fire science course requirements for higher levels of certification for all disciplines of fire protection personnel.

10. Discussion and possible action on mission statement for the Testing Committee.

11. Report of Testing Committee with discussion and possible action on recommendations.

12. Discussion only concerning proposed Sunset legislation.

13. New matters from committee members and the public to be placed on future meeting agenda.

14. Discussion and possible action on future meeting dates, agenda items, and locations.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78758,
(512) 918-7100.

Filed: February 26, 1997, 11:51 a.m.

TRD-9702758

Office of the Governor-Criminal Justice Division

Monday, March 10, 1997, 9:00 a.m.

State Capitol, Room E1.018

Austin

Texas Crime Stoppers Advisory Council Regular Meeting

AGENDA:

I. Call to order

II. Approval of minutes

III. Report from Mary Garrett & Associates re: Specialized Topics Conference, October 1998

IV. Report from Education Steering Committee chair re: Campus Conference, March 1997; Annual Conference, April 1997; Specialized Topics Conference, October, 1997.

V. Awards- review nominations, selects award winners for 1997 Annual Crime Stoppers Conference

VI. Schedule Next Advisory Council Meeting

VII. Adjourn

Contact: Patricia J. McDaniel, P.O. Box 12428, Austin, Texas 78711,
(512) 463-1784.

Filed: February 28, 1997, 3:17 p.m.

TRD-9702888

Texas Higher Education Coordinating Board

Monday, March 10, 1997, 9:00 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700
Chevy Chase Drive

Austin

Committee of the Whole

REVISED AGENDA:

Discussion of the process for selecting a Board secretary.

Consideration of Education Impact Analysis of Senate Bill 840 of the 75th Legislature, relating to the downward expansion of the University of Texas at Tyler.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: February 28, 1997, 10:22 a.m.

TRD-9702852

Texas State Board of Medical Examiners

Thursday, February 27, 1997, 9:00 a.m., Saturday, March 1, 1997, 8:30 a.m.

333 Guadalupe, Tower 2, Suite 225

Austin

EMERGENCY REVISED AGENDA:

In addition to previously posted agenda, the board will consider a request for modification of order and will review and consider approval of additional orders.

REASON FOR EMERGENCY: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016.

Filed: February 26, 1997, 4:36 p.m.

TRD-9702777

Texas Natural Resource Conservation Commission

Thursday, March 6, 1997, 10:30 a.m.

Building F, Room 2206, 12100 Park 35 Circle, (TNRCC Complex)

Austin

Weather Modification Advisory Committee

EMERGENCY MEETING AGENDA:

The committee will review minutes from the December 12, 1997 meeting, hear staff reports on Status of Weather Modification Permit Applications: Powell Plant Farms, Inc. and Planned Rain-Enhancement Project in 1997, discuss pending Legislative Action on Weather Modification Funding; view video on "Texas Exercise in Augmenting Rainfall through Cloud-Seeding"; discuss other business and next meeting location.

REASON FOR EMERGENCY: Meeting called by Chairman of the committee.

Contact: George W. Bomar, TNRCC, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0770.

Filed: February 28, 1997, 12:16 a.m.

TRD-9702860

Monday, March 24, 1997, 10:00 a.m.

Building B, Room 201A, 12124 Park 35 Circle, (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by MAVERICK COUNTY AIR BASE WATER SUPPLY SYSTEM to amend its water Certificate of Convenience and Necessity (CCN) Number 10216 which authorizes the provision of water utility service in Maverick County, Texas. The applicant also proposes to change the CCN Holder Name to Maverick County.

Maverick County has applied to the Commission for a sewer Certificate of Convenience and Necessity to authorize the provision of sewer utility service in Maverick County, Texas.

The proposed utility service area for the above applications is located approximately 15 miles north of downtown Eagle Pass, Texas and is generally bounded on the south side of and including the Radar Base and follows U.S. Highway 277 north through and including Normandy and continues north on U.S. Highway 277 to and including the colonia of Quemado. The total area being requested includes approximately 3,300 acres and 27 current customers.

The above matters have been designated as SOAH Docket Number 582-97-0132.

Contact: Pablo Carrasquillo, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: February 27, 1997, 10:23 a.m.

TRD-9702788

Wednesday, March 26, 1997, 10:00 a.m.

Building C, Room 131E, 12124 Park 35 Circle, (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by DANIEL'S HOMES, INC. for a water Certificate of Convenience and Necessity (CCN) to authorize the provision of water utility service to the Whispering Oaks Subdivision on Coryell County, Texas. The proposed utility service area, to include dual certification with Topsey Water Supply Corporation and Kempner Water Supply Corporation, is located approximately 3.6 miles north of downtown Copperas Cove, Texas and is generally bounded on the east by FM 116. The total area being requested includes approximately 26 acres and 9 current customers. SOAH Docket Number 582-97-0133.

Contact: Pablo Carrasquillo, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: February 27, 1997, 10:25 a.m.

TRD-9702789

Thursday, March 27, 1997, 10:00 a.m.

Building C, Room 131E, 12124 Park 35 Circle, (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on applications filed with the Texas Natural Resource Conservation Commission by the following:

LAKE TURNER MUNICIPAL UTILITY DISTRICT (MUD) Number 2 for Certificates of Convenience and Necessity to provide both water and sewer utility service in Tarrant County, Texas. A portion of the area for which Lake Turner MUD Number Two is requesting water utility service certification includes an area certificated to the City of Keller, Texas under TNRCC CCN Number 10975. Lake Turner MUD Number Two is not requesting decertification of the City of Keller's certificated water service rights within this area of overlap and does not request that any customer of the City of Keller be certificated to the Lake Turner MUD Number Two. Rather, Lake Turner MUD Number One requests that the TNRCC grant dual certification to both Keller and Lake Turner MUD Number Two within the area of overlap. The proposed utility service area is located within the corporate limits of the Town of Westlake, Texas and within the boundaries of the Lake Turner MUD Number two. The service area is generally bounded on the north by the Denton/Tarrant county line, on the east by Precinct Line Road, on the south by the northern corporate limits of Keller, and on the west by Roanoke Road. The total area being requested includes approximately 907 acres and no current customers.

LAKE TURNER MUD NUMBER 3 has applied to the Commission for Certificates of Convenience and Necessity to provide both water and sewer utility service in Tarrant and Denton Counties, Texas. The proposed utility service area is located within the corporate limits of the town of Westlake, Texas, approximately two miles west of the Westlake Town Hall and is encompassed entirely within the boundaries of the Lake Turner MUD Number 3. The service area is generally bounded on the north by ~~Lomas~~ Highway 114 and the southern corporate limits of Roanoke, Texas; on the east by Precinct Line Road; on the south by Dove Road; and on the west by Roanoke Road. The total area being requested includes approximately 1,089 acres and no current customers.

These above matters have been designated as SOAH Docket Number 582-97-0134. Staff is requesting that they be consolidated for the purpose of the hearing with an application by the Town of Westlake for water and sewer Certificates of Convenience and Necessity in Denton and Tarrant counties (SOAH Docket Number 582-97-0175).

Contact: Pablo Carrasquillo, P.O. Box 13025, Austin, Texas 78711-3025., (512) 475-3445.

Filed: February 27, 1997, 10:38 a.m.

TRD-9702793

Thursday, March 27, 1997, 10:00 a.m.

Building C, Room 131E, 12124 Park 35 Circle, (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by the TOWN OF WESTLAKE for Certificates of Convenience and Necessity to provide both water and sewer utility service in Denton and Tarrant Counties, Texas. The Town of Westlake is requesting to decertify a portion on CCN Number 12311 issued to the City of Fort Worth in Denton and Tarrant Counties. The proposed utility service areas are located approximately 18 miles north-northwest of downtown Fort Worth, Texas and are generally bounded on the north by State Highway 114, on the east by the Town of Southlake, on the south by the City of Keller, and on the west by State Highway 377. The total area being requested includes approximately 3,951 acres and 62 current customers. SOAH Docket Number 582-97-0175.

Staff is requesting that this application be consolidated for the purpose of the hearing with applications by Lake Turner Municipal Utility District Number Two and Lake Turner Municipal Utility District Number Three for water and sewer Certificates of Convenience and Necessity in Denton and Tarrant Counties (SOAH Docket Number 582-97-0134.).

Contact: Pablo Carrasquillo, P.O. Box 13025, Austin, Texas 78711-3025., (512) 239-3300.

Filed: February 27, 1997, 10:29 a.m.

TRD-9702790

Tuesday, April 1, 1997, 10:00 a.m.

Building B, Room 201A, 12124 Park 35 Circle, (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by RIDGEWOOD VILLAGE WATER SYSTEM for a Certificate of convenience and Necessity (CCN) to provide sewer utility service in Travis County, Texas. The proposed utility service area is located approximately three miles west of downtown Austin, Texas and is generally bounded on the east by Austin and the City of Rollingwood, on the south by the City of Rollingwood and the City of West Lake Hills (Gentry Street), on the west by Las Lomas Subdivision and Austin's Stratford Hills Section II, and on the north by the Austin's Stratford Place (Stratford Drive). The total area being requested includes approximately 1.7 acres and 60 proposed customers. SOAH Docket Number 582-97-0135.

Contact: Pablo Carrasquillo, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: February 27, 1997, 10:29 a.m.

TRD-9702791

Board of Nurse Examiners

Thursday, Friday, March 20-21, 1997, 8:30 a.m.

333 Guadalupe Street, Tower 2, Room 225

Austin

AGENDA:

The Board of Nurse Examiners will receive the minutes from the January meeting, December 1996 and January 1997 financial statements; consider education matters, including a public hearing to consider a proposal from St. Phillip's College in San Antonio to develop an ADN program that is a transition program for LVNs scheduled for 10:00 a.m. on 3/20.

The Board will receive reports from the executive director and various committees; consider adoption of Mission Statement and Governance Policies and hold an Open Forum from 1:30-2:00 p.m. on Thursday, March 20, 1997 to provide an opportunity for constituents to address the Board.

The Board will take action on the following Declaratory Order petitioners: Patrick M. Allen, Kathleen K. Baker, Sarah D. Betts, James E. Horton, Lila M. Hubble, Richard L. Hudman, Alice L. Huntington, Mary P. Littleton, Mark M. Maiden, Angelita Monreal, Cheryl L. Pierce, Deborah A. Risner, Roger Serna, Timothy D. Simecek, Tamara J. Simmons, Madelon L. Williams. The Board will consider Agreed Orders for Patrick A. Charlton, #511337, Janis A. Livsey, #608271, Barbara Roggenhamp, #242884, Janice A. Saunders, #541456, David W. Summers, #590026, Sandra E. Tidwell, #584789, Patricia J. Wells, #535044, and Jacqueline E. Young, #592367 and ALJ proposals for decision for Theresa P. Austin, #238426, Donna I. Cook, #425211, Mary M. Davis, #552322, Thomas L. Ervin, #610915, Wendy R. Gabriel, #577482, Judson C. Hawkins, #460069, Catherine A. Hill, #554685, Madelyn J.C. Lee, #224830, Gwendolyn G. Pinnell, #577363, Lynda M. Sams, #528072, Raymond R. Slivocka, #603231, Robert L. Smiley, Jr., #532255, Rhonda L. Townley, #568881, and Arlene R. Verdier, #576756.

Contact: Erlene Fisher, Box 430, Austin, 78767-0430 (512) 305-6811.
Filed: February 27, 1997, 2:04 p.m.

TRD-9702818

Texas State Board of Plumbing Examiners

Monday, March 10, 1997, 8:30 a.m.

El Paso Water Utilities, 1154 Hawkins Street

El Paso

Board

AGENDA:

1. Roll call — 8:30 a.m.;
2. Recognize staff and visitors;
3. Public comment;
4. Consider approval of the minutes of the January 13, 1997 Board Meeting;
5. Report regarding frequency and location of future Board Meetings;
6. Hear committee reports: a. Continuing Education; b. Rules Review; c. Code; d. Enforcement; e. Examination; f. Legislative; g. Medical Gas; h. Personnel; i. Water Supply Protection Specialist;
7. Field Department;
8. Examination Department;
9. Fiscal Department;
10. Administrative Department;
11. Adjourn.

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145, extension 222.

Filed: February 27, 1997, 12:07 p.m.

TRD-9702801

Texas Board of Licensure for Professional Medical Physicists

Wednesday, March 12, 1997, 9:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Credentials Committee

AGENDA:

The committee will discuss and possibly act on: applicants for licensure under 22 Texas Administration Code, §601.6 concerning application procedures for application numbers 0357 and 5083.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Jeanette Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655.

Filed: February 28, 1997, 3:04 p.m.

TRD-9702887

Wednesday, March 12, 1997, 10:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

AGENDA:

The board will introduce members, guests and staff and will discuss and possibly act on: approval of the minutes from the July 10, 1996 meeting; chairman's report; executive secretary's report; update on House bill 1200 from the 1995 74th Texas Legislature; regulatory update from the Bureau of Radiation Control on *Texas Regulations for Control of Radiation*, Part 32 (concerning licensing review procedures for technician qualifications); draft of proposed rules to 22 Texas Administration Code (TAC), Chapter 601 (concerning fees, expiration date of licenses and inactive status); supervision by licensed medical physicists; comments received on proposed rules as published in the December 6, 1996 issue of 21 Tex Reg 11712 (22 TAC §601.2 concerning definitions, §601.20 concerning continuing education requirements, and §601.21 concerning common duties and medical physics specialties); adoption of final rules (22 TAC, §§601.2, 601.20, and 601.21); ratification of applications approved by executive secretary; ratification of applications approved by the Credentials Committee; election of the chair and vice-chair board positions; and the setting of the next meeting date.

To request an accommodation under the ADA, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights

at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Jeanette Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655.

Filed: February 28, 1997, 3:03 p.m.

TRD-9702886

Public Utility Commission of Texas

Thursday, March 6, 1997, 1:00 p.m.

1701 North Congress Avenue

Austin

AGENDA:

The Commissioners will meet in Closed Meeting to discuss personnel matters, pursuant to Texas Government Code 551.074; discussion, interview and possible selection of candidate to fill position of Chief of Office of Policy Development.

Contact: Paula Mueller, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7007.

Filed: February 26, 1997, 5:13 p.m.

TRD-9702778

Monday, March 17, 1997, 9:00 a.m.

1701 North Congress Avenue

Austin

AGENDA:

A Hearing on the Merits will be held by the State Office of Administrative Hearings in Docket Number 17127-application of Telenet-work, Inc. for a Service Provider Certificate of Operating Authority (SPCOA) Applicant intends to resell local exchange services(s) to business and residential customers. Applicant's requested SP-COA geographic area follows the current Public Utility Commission's (PUC) certificated boundaries of the existing and hereafter PUC approved service areas of the Southwestern Bell Telephone Company, General Telephone of the Southwest (GTE), Centel-Texas (Sprint), Sprint-United Telephone, ALLTEL Sugar Land Telephone Company; Texas ALLTEL, Inc. and Lufkin-Conroe Telephone Exchange, Inc. Persons who wish to intervene or otherwise participate in these proceeding should make appropriate filings or comments to the commission by March 12, 1997.

Contact: Paula Mueller, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7152.

Filed: February 27, 1997, 8:58 a.m.

TRD-9702784

Texas Racing Commission

Thursday, March 6, 1997, 10:00 a.m.

1101 Camino La Costa, Room 235

Austin

AGENDA:

Call to Order; Roll Call; Consideration of and action on the following Texas Racing commission rules: §§311.208, 319.7, 305.35, 309.402, 309.403, 303.92, 313.106, 313.111, 321.232-321.234; Consideration of and action on Petition by Texas Quarter Horse Association, for amendments to §303.93, §303.104, §313.450; Petition by Texas Horsemen's Partnership, LLP, for amendment to §305.42 and §305.44; Petition by Lone Star Park at Grand Prairie for amendment to §309.60; Consideration of and action on Appellant's Motion for Rehearing and Staff's Response to Motion for Rehearing in SOAH Number 476-96-1127, TxRC Number 96-02-08, In Re: the Appeal by Mike Short from Stewards' Ruling Manor 1292; Consideration of and action on Proposal for Decision in SOAH Number 476-96-2019, TxRC Number 96-02-14, In Re: the Appeal by Blanca Garza from Stewards' Ruling Sam Houston 940; Consideration of and action on Request by Gulf Greyhound Park for exemption to §309.305 (Starting Boxes); Consideration of and action on request by Sam Houston Race Park, Ltd., for approval of change in ownership; Consideration of and action on agreement between Texas Horsemen's Benevolent and Protective Association and Sam Houston Race Park, Ltd; Consideration of and action on agreement between Texas Thoroughbred HBPA, Inc. and Lone Star Race Park, Ltd.; Consideration of and action on agreement between Texas Horsemen's Benevolent and Protective Association and Manor Downs, Inc.; Consideration of, action on, and possible Executive Session pursuant to Texas Racing Act, V.T.C.S. Article 179e, §6.03(b) regarding totalisator contract for Manor Downs, Inc.; Consideration of, action on, and possible Executive Session pursuant to Texas Racing Act, V.T.C.S. Article 179e, §6.03(b) regarding management contract and addendum for Retama Park; Consideration of and action on agreements between Retama Park and Texas Thoroughbred HBPA, Inc. and Texas Horsemen's Benevolent and Protective Association; Old and New Business; Adjourn.

Contact: Paula C. Flowerday, P.O. Box 12080, Austin, Texas 78711, (512) 833-6699.

Filed: February 26, 1997, 4:31 p.m.

TRD-9702775

Railroad Commission of Texas

Tuesday, March 11, 1997, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached agenda as filed with the Texas Register. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Contact: Lindil C. Fowler, Jr. P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7033.

Filed: February 28, 1997, 12:10 p.m.

TRD-9702858

Texas Senate

Tuesday, March 18, 1997, 11:00 a.m. or upon completion of Senate business

Senate Chamber, State Capitol Building, 15th Street and Congress Avenue

Austin

Senate Committee of the Whole on Legislative and Congressional Redistricting

AGENDA:

I. Call to Order

II. Introductory Remarks

III. Consideration of Committee Rules

IV. Brief Presentation on Redistricting Matters

V. Public Testimony, to consider the following:

S.B. 714 (Barrientos) relating to the apportionment of the state into congressional districts

S.B. 715 (Barrientos) relating to apportionment of the state into state senate districts

VI. Other Business

VII. Recess or Adjourn

Purpose: The committee is meeting to take testimony on two bills, one related to congressional redistricting and one related to senate redistricting. Testimony may also be taken on other redistricting legislation filed subsequent to this initial posting. Proposals for specific districts and discussion of current lines are welcome. The committee will not take any action on the bills at this meeting.

Contact: Kimberly Herry, P.O. Box 12068, Austin, Texas 78711, (512) 463-0067.

Filed: February 28, 1997, 4:27 p.m.

TRD-9702893

Teacher Retirement System of Texas

Friday, March 7, 1997, 11:00 a.m.

1000 Red River, Room 229-E

Austin

Texas Public Employees Group Insurance Program Retirees Advisory Committee

AGENDA:

Call to Order

Introduction of Guests and Visitors

Approval of Minutes of January 10, 1997 Meeting

Public Comments

Finalize Plan Design Changes

Retail Prescription Drug Copay Amounts

Retail Pharmacy Network Changes

Drug Utilization Review and Education Process

Precertification of Penalty Amounts

Consideration of Retiree contribution Amounts for September 1, 1997

Discussion and Overview of Managed Care Strategy

Chief Benefit Officer Comments

Executive Director Report

Adjourn

For ADA assistance, contact John R. Mercer, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting.

Contact: Liz Zarsky, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: February 27, 1997, 2:03 p.m.

TRD-9702816

Tuesday, March 11, 1997, 12:00 Noon

1000 Red River, Room 420-E

Austin

Medical Board

AGENDA:

Discussion of 1) the files of members who are currently applying for disability retirement and 2) the files of disability retirees who are due a re-examination report..

For ADA assistance, contact John R. Mercer, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting

Contact: Don Cadenhead, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: February 27, 1997, 2:03 p.m.

TRD-9702817

Monday, March 10, 1997, 9:30 a.m.

1717 Main Street, Bank One Building, Seventh Floor

Dallas

Board of Trustees Real Estate Committee

AGENDA:

1. Approval of Minutes of January 24, January 30, and February 3, 1997 Meetings

2. Consideration of Restructure of One Brookline Loan (Massachusetts Property)

3. Consideration of Sale of 1221 East Warner Property (California Property) Owned by TRST Orange County, Inc.

4. Report on Advisor Performance Evaluation

5. Update Regarding Project of Real Estate Strategic Consultant
6. Discussion Regarding First City Tower II Loan (Corpus Christi Property)
7. Update on Mortgage Risk Ratings
8. Consideration of Resignation of Consultant LaSance

For ADA assistance, contact John R. Mercer, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400 or T.D.D. (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting.

Contact: John R. Mercer, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: February 28, 1997, 4:25 p.m.

TRD-9702892

Texas Southern University

Thursday, March 13, 1997, 9:00 a.m.

3100 Cleburne/Law School Conference Room 221, Second Floor

Houston

Litigation Committee

AGENDA:

Meeting to Consider: A Review of cases filed and pending against the university. Executive Session.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:21 p.m.

TRD-9702763

Thursday, March 13, 1997, 10:30 a.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Development Committee

AGENDA:

Meeting to Consider: Reports from the Administration on university Fund-Raising ~~effects~~.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:22 p.m.

TRD-9702764

Thursday, March 13, 1997, 11:30 a.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Academic Affairs Committee

AGENDA:

Meeting to Consider: Progress reports of academic activities and programs. Executive Session.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:22 p.m.

TRD-9702765

Thursday, March 13, 1997, 12:30 p.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Student Services Committee

AGENDA:

Meeting to Consider: Meeting to receive informational items only.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:22 p.m.

TRD-9702766

Thursday, March 13, 1997, 1:30 p.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Personnel Committee

AGENDA:

Meeting to Consider: The ratification of appointments of instructional personnel, academic personnel changes. Executive Session.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:23 p.m.

TRD-9702767

Thursday, March 13, 1997, 2:30 p.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Finance and Buildings and Grounds Committee

AGENDA:

Meeting to Consider: Matters to Consider: Matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments, contract awards; and informational items. Executive Session.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:23 p.m.

TRD-9702768

Friday, March 14, 1997, 8:30 a.m.

3100 Cleburne/Robert J. Terry Library, Fifth Floor

Houston

Board of Regents

AGENDA:

Meeting to Consider: Minutes; Report of the President; Report from Committees; Executive Session.

Contact: Ms. Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: February 26, 1997, 1:24 p.m.

TRD-9702769

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The Texas State University System

Wednesday-Friday, March 5-7, 1997, 3:30 p.m., 9:00 a.m., and 9:00 a.m. respectively

Wednesday: Four Seasons Farm, 200 FM 150; Thursday and Friday: Room 1112, J.C. Kellam Building, Southwest Texas State University San Marcos

Board of Regents

AGENDA:

Review of matters of the Board and the components of the System including: all matters of curriculum including reports, curriculum, and program and degree changes, additions and deletions and out-of-country programs; all matters of construction projects and documentation; financial matters of the System Administration Office and the components of the System including bond sales, operating budget changes, fees, rates, divestment plans, internal audit reports, contract, agreement and strategic plan approvals, purchases of furnishings and equipment, receipts of gifts, discussion of pending or contemplated litigation, settlements, or other legal matters; personnel actions including promotions, resignations, retirements, tenure, emeritus status, resolutions of honor, commissioning of police officers, salaries/salary supplements, deliberation of appointment, employment, re-employment of existing employees, evaluation, reassignment, duties, discipline, dismissal and/or replacement of any system employee including staff, faculty, Presidents and the Chancellor. (Where appropriate and permitted by law, Executive Sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 27, 1997, 8:58 a.m.

TRD-9702783

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Texas Woman's University Board of Regents

Thursday, March 6, 1997, 1:00 p.m.

Texas Woman's University, Presbyterian Campus

8194 Walnut Hill Lane, Faculty Conference Room, First Floor

Dallas

Finance and Audit Committee

AGENDA:

Consider approval of the minutes of the Committee meeting of December 5, 1996; Consider recommending approval of personnel

additions and changes; Consider recommending acceptance of gifts and grants; Consider a report on the Center for Consulting and Planning, School of Library and Information Studies; Consider recommending approval of contracts and agreements; Consider recommending approval of allocation of federal funds; Consider recommending approval of the renewal, extension and acquisition of insurance; Receive the Second Quarter 1997 Internal Audit Activity Report; Consider recommending approval of opening a new bank account at First State Bank, Denton, Texas, for the purpose of receiving and returning student loan funds by electronic funds transfer and consider granting authority for Dr. Brenda Floyd, Vice President for Finance and Administration; Dana Gibson, Special Assistant to the Vice President for Finance and Administration, and C.W. Coleman, Manager of Grants Accounting, to sign checks on same; Consider recommending approval and/or reaffirmation of authorization for Dana Gibson, Special Assistant to the Vice President for Finance and Administration; C.W. Coleman, Manager of Grants Accounting; and M.A. DeMore, Accountant, to approve local vouchers and vouchers submitted to the State Comptroller of Public Accounts for payment and to reaffirm authorization for C.R. Trevino, Accountant, to approve vouchers submitted to the State Comptroller of Public Accounts for payment; Consider recommending approval and/or reaffirmation of authorization for Dr. Brenda Floyd, Vice President for Finance and Administration; Dana Gibson, Special Assistant to the Vice President for Finance and Administration; and C.W. Coleman, Manager of Grants Accounting, to sign checks on the Revolving Fund and other local University funds; Also to reaffirm Kathryn S. Stream, Associate Vice President; Sharon Hopkins, Business Accountant-Houston; Phyllis McCutchan, Financial Aid Counselor-Houston; and Lori Nelson, Coordinator of Administrative Services—Houston; in addition to those named above, to sign checks on "Texas Woman's University Houston Emergency Loan Fund" and the "Texas Woman's University Northwest Center Hospital Auxiliary Student Loan Fund" bank accounts at First State Bank of Texas, Denton, Texas; Report of the Committee Chair.

Contact: Dr. Carol D. Surlis, P.O. Box 425597, Denton, Texas 76204, (817) 898-3201.

Filed: February 27, 1997, 2:48 p.m.

TRD-9702833

◆ ◆ ◆
Thursday, March 6, 1997, 2:30 p.m.

Texas Woman's University, Presbyterian Campus

8194 Walnut Hill Lane, Faculty Conference Room, First Floor

Dallas

Academic Affairs Committee

AGENDA:

Consider approval of the minutes of the Committee meeting of December 5, 1996; Consider recommending approval of the amended Texas Woman's University Role and Scope and Mission statements and Table of Programs for submission to the Coordinating Board, as required every five years; Consider receiving the Texas Woman's University Strategic Plan; Consider recommending approval of the Center for Consulting and Planning, School of Library and Information Studies; Consider recommending approval of Dr. Glenda Brock Simmons as Vice President Emerita and Associate Professor

of Business and Economics Emerita; Receive an update on activities of the Office of Academic Affairs; Report of the Committee Chair.

Contact: Dr. Carol D. Surlis, P.O. Box 425597, Denton, Texas 76204, (817) 898-3201.

Filed: February 27, 1997, 2:45 p.m.

TRD-9702832

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Friday, March 7, 1997, 9:00 a.m.

Texas Woman's University, Presbyterian Campus

8194 Walnut Hill Lane, Faculty Conference Room, First Floor

Dallas

Committee on Institutional Advancement

AGENDA:

Consider approval of the minutes of the Committee meeting of December 6, 1996; Receive an update on alumni relations, development, and public information activities of the Office of Institutional Advancement; Report of the Committee Chair.

Contact: Dr. Carol D. Surlis, P.O. Box 425597, Denton, Texas 76204, (817) 898-3201.

Filed: February 27, 1997, 2:45 p.m.

TRD-9702831

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Friday, March 7, 1997, 10:00 a.m.

Texas Woman's University, Presbyterian Campus

8194 Walnut Hill Lane, Faculty Conference Room, First Floor

Dallas

Student Life Committee

AGENDA:

Consider approval of the minutes of the Committee meeting of December 6, 1996; Consider recommending approval for a requirement for tuberculosis testing on international students; Information items from the Office of Student Life; Report of the Committee Chair.

Contact: Dr. Carol D. Surlis, P.O. Box 425597, Denton, Texas 76204, (817) 898-3201.

Filed: February 27, 1997, 2:45 p.m.

TRD-9702830

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Friday, March 7, 1997, 1:00 p.m.

Texas Woman's University, Presbyterian Campus

8194 Walnut Hill Lane, Faculty Conference Room, First Floor

Dallas

Board of Regents

AGENDA:

Executive Session; Consider approval of the minutes of the Board of Regents meeting of December 6, 1996; Consider approval of personnel additions and changes, gifts and grants, contracts and

agreements, allocation of federal funds, and renewal, extension and acquisition of insurance; Receive the Second Quarter 1997 Internal Audit Activity Report; Consider approval of opening a new bank account at First State Bank, Denton, Texas and consider granting authority for certain persons to sign checks on same: consider approval and/or reaffirmation of authorization for Dana Gibson, C.W. Coleman, and M.A. DeMore to approve local vouchers and vouchers submitted to the State Comptroller of Public Accounts for payment; to reaffirm authorization for C.R. Trevino to approve vouchers submitted to the State Comptroller of Public Accounts for payment; to consider approval and/or reaffirmation of authorization for Dr. Brenda Floyd, Dana Gibson, and C.W. Coleman to sign checks on the Revolving Fund and other local University funds; Also to reaffirm Kathryn S. Stream, Sharon Hopkins, Phyllis McCutchan, and Lori Nelson, in addition to those named above, to sign checks on "Texas Woman's University Houston Emergency Loan Fund" and the "Texas Woman's University Northwest Center Hospital Auxiliary Student Loan Fund" bank accounts at First State Bank of Texas, Denton, Texas. Consider approval of amended Texas Woman's University Role and Scope and Mission Statements and Table of Programs for submission to the Coordinating Board; Consider receiving the statements and Table of Programs for submission to the Coordinating Board; Consider receiving the Texas Woman's University Strategic Plan; Consider approval of the Center for Consulting and Planning, School of Library and Information Studies; Consider approval of Dr. Glenda Brock Simmons as Vice President Emerita and Associate Professor of Business and Economics Emerita; Consider approval of a requirement for tuberculosis testing of international students; Reports from the Committee Chairs; Report from the President.

Contact: Dr. Carol D. Surlis, P.O. Box 425597, Denton, Texas 76204, (817) 898-3201.

Filed: February 27, 1997, 2:44 p.m.

TRD-9702829

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Texas Council on Workforce and Economic Competitiveness

Sunday, March 13, 1997, 10:00 a.m.

1100 San Jacinto, Room 100

Austin

Executive Committee

AGENDA:

10:00 a.m.- Call to Order; Public Comment; Action Item; Consider adoption of Memorandum of Understanding (MOU) Between the Texas Workforce Commission and the Texas Council on Economic Competitiveness on Performance Evaluation; Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, (512) 936-8103 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 936-8103.

Filed: February 28, 1997, 12:49 p.m.

TRD-9702864

Regional Meetings

Meetings filed February 26, 1997

Ark-Tex Council of Governments, Ark-Tex Private Industry Council Education Advisory Subcommittee, met at Titus County Civic Center, 1800 North Jefferson, Mount Pleasant, March 6, 1997 at 11:00 a.m. Information may be obtained from Sandy Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9702771.

Ark-Tex Council of Governments, Ark-Tex Private Industry Council Planning Committee, met at Titus County Civic Center, 1800 North Jefferson, Mount Pleasant, March 6, 1997 at 1:30 p.m. Information may be obtained from Sandy Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9702772.

Ark-Tex Council of Governments, Ark-Tex Private Industry Council, met at Titus County Civic Center, 1800 North Jefferson, Mount Pleasant, March 6, 1997 at 2:30 p.m. Information may be obtained from Sandy Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9702773.

Bell-Milam-Falls Water Supply Corporation Board, met at Corporation Office, FM 485 West, Cameron, March 6, 1997 at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9702759.

Dallas Central Appraisal District, Board of Directors Regular Meeting, met at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, March 5, 1997, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9702755.

East Texas Council of Governments, CEO Board of Directors, met at 1306 Houston Street, Kilgore, March 5, 1997 at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9702762.

Texas Panhandle Mental Health Authority, Board of Trustees, met at 7201 I-40 West, Second Floor, Amarillo, February 27, 1997 at 10:30 a.m. Information may be obtained from Shirley Hollis, P.O. Box 3250, Amarillo, Texas 79116-3250, (806) 353-3699, extension 29, fax: (806) 353-9537. TRD-9702770.

Meetings filed on February 27, 1997

Brazos Valley Development Council, Brazos Valley Regional Advisory Committee on Aging, met March 4, 1997 at 2:30 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9702819.

Concho Valley Council of Governments, Economic Development District, met at 5014 Knickerbocker Road, San Angelo, March 5, 1997 at 4:00 p.m. Information may be obtained from Troy Williamson, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9702838.

Concho Valley Council of Governments, Executive Committee, met at 5014 Knickerbocker Road, San Angelo, March 5, 1997 at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9702839.

Dawson County Central Appraisal District, Board of Directors, met at 1806 Lubbock Highway, Lamesa, March 5, 1997 at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9702837.

Hickory Underground Water Conservation District Number One, Board and Advisors, met at 2005 South Bridge, Brady, March 6, 1997 at 7:30 a.m. Information may be obtained from Stan Reinhard, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9702786.

Kendall Appraisal District, Board of Directors, met at 121 South Main Street, Boerne, March 4, 1997 at 5:30 p.m. Information may be obtained from Leta Schlinke or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, fax: (210) 249-3975. TRD-9702796.

Shackelford Water Supply Corporation, Directors, met at Fort Griffin Restaurant, Albany, March 5, 1997 at Noon. Information may be obtained from Gaynell Perkins, Box 11, Albany, Texas 76430, (817) 345-6868 or (915) 762-2575. TRD-9702798.

Taylor County Central Appraisal District, Appraisal Review Board, met at 1534 South Treadaway, Abilene, March 4, 1997, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381, extension 24. TRD-9702828.

Meetings filed February 28, 1997

Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One, Board of Directors, met at 226 Highway 132, Natali, March 3, 1997 at 8:30 a.m. Information may be obtained from John W. Ward, III, 226 Highway 132, Natali, Texas 78059, (210) 665-2132. TRD-9702842.

Dallas Area Rapid Transit, President's Luncheon, met at 1401 Pacific Avenue, Conference Room A, Second Floor, Dallas, March 4, 1997 at Noon. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9702862.

Dallas Area Rapid Transit, Bylaws Ad Hoc Committee, met at 1401 Pacific Avenue, Conference Room A, Second Floor, Dallas, March 5, 1997 at 11:30 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9702863.

East Texas Council of Governments, Executive Committee, met at 1306 Houston Street, Kilgore, March 6, 1997 at 1:00 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9702849.

Education Service Center, Region V, Board, met at 2295 Delaware Street, Beaumont, March 5, 1997 at 1:00 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703-4299 (409) 838-5555. TRD-9702865.

Edwards Aquifer Authority, Finance Committee, met at 1615 North St. Marys' Street, San Antonio, March 4, 1997 at 3:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9702850.

Edwards Aquifer Authority, Executive Committee, met at 1615 North St. Marys Street, San Antonio, March 4, 1997 at 5:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9702851.

Hale County Appraisal District, Board of Directors, met at 2606 Olton Road, Plainview, March 6, 1997, at 7:30 a.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79073, (806) 293-4226. TRD-9702861.

Hays County Appraisal District, Board of Directors, met at 21001 North IH35, Kyle, March 6, 1997 at 3:30 p.m. Information may be obtained from Lunnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD-9702907.

Hockley County Appraisal District, Appraisal Review Board, met at 1103 Houston Street, Levelland, March 4, 1997 at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9702879.

Johnson County Rural Water Supply Corporation Revised agenda, Membership Committee, met at 1501 West Henderson, Cleburne, March 4, 1997 at 7:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9702846.

Johnson County Rural Water Supply Corporation. Special Board of Directors meeting, followed by the Membership Committee, met at 1501 West Henderson, Cleburne, March 4, 1997 at 8:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9702844.

Kempner Water Supply Corporation, Monthly Board of Directors Meeting, met at Kempner Water Supply Corporation Offices, Kempner, March 6, 1997, at 6:30 p.m. Information may be obtained from Donald W. Guthrie, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9702845.

Middle Rio Grande Development Council Area Agency on Aging, met at 209 North Getty, Uvalde, March 5, 1997 at 10:00 a.m.

Information may be obtained from Berta Rocha Macat, P.O. Box 1199, Carrizo Springs, Texas 78834, 1-800-224-4262. TRD-9702866.

Riceland Regional Mental Health Authority, Board of Trustees, met at 4910 Airport, Rosenberg, March 6, 1997 at 9:00 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9702859.

Stephens County Rural Water Supply Corporation, Regular Board meeting, met at 301 West Elm Street, Breckenridge, March 6, 1997 at 6:00 a.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9702847.

Tyler County Appraisal District, Board of Directors, will meet at 806 West Bluff, Woodville, March 11, 1997, at 10:00 a.m. Information may be obtained from Tyler Cad, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9702876.

Meetings filed March 3, 1997

District Judges Meeting- 36th, 156th and 343rd District Courts, met at 301 North Live Street, Rockport, March 7, 1997 at 9:00 a.m. Information may be obtained from Joel B. Johnson, P.O. Box 1568, Beeville, Texas 78381, (512) 362-3239. TRD-9702933.

Nolan County Central Appraisal District, Board of Directors, met at Nolan County Courthouse, Third Floor, 100 East Third, Sweetwater, March 11, 1997 at 7:00 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD- 9702932.

Name: Vic Aguirre

Grade: 11

School: Fort Stockton High School, Fort Stockton ISD



11/20/11
Vic Aguirre

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Office of the Attorney General

Texas Clean Air Act Enforcement Settlement Notice

Notice is hereby given by the State of Texas of the following resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. Section 382.096 of the Texas Health & Safety Code provides that before the State may settle a judicial enforcement action under the Clean Air Act, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act.

Case Title and Court: State of Texas versus ICO, Inc., Cause Number 96-08956, 201st District Court, Travis County, Texas.

Nature of Defendant's Operations: ICO, Inc. operates a plastics coating plant located at 2400 Stevens Road in Odessa, Ector County, Texas.

Agreed Judgment: The Agreed Final Judgment prohibitively and mandatorily enjoins the Defendant as follows: (1) the Defendant is enjoined from further violations of 30 TAC §101.4 at the East Burnout Oven; (2) the Defendant is enjoined to continue operational procedures related to the East Burnout Oven; (3) the Defendant is ordered to submit a summary of its inspection and maintenance program to the TNRCC; (4) the Defendant is ordered to meet with the TNRCC to review and discuss possible changes to the inspection and maintenance program. The Judgment also assesses \$20,000 in civil penalties and \$3,500 in attorney's fees.

For a complete description of the settlement, the complete Agreed Final Judgment should be reviewed. Requests for copies of the judgment and written comments on the judgment should be directed to Eugene A. Clayborn, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0052. Written comments must be received within 30 days of publication of this notice to be considered.

Issued in Austin, Texas, on February 26, 1997.

TRD-9702756

Suzanne Marshall
Special Assistant Attorney General
Office of the Attorney General
Filed: February 26, 1997

Texas School for the Blind and Visually Impaired Consultant Proposal Request

The Texas School for the Blind and Visually Impaired (TSBVI) announces the availability of up to \$50,000 to provide training to TSBVI staff in order to implement a discipline model which teaches appropriate social skills for blind and visually impaired students.

TSBVI is requesting proposals for provision of an intensive training program for staff to implement effective strategies that enable students to demonstrate socially appropriate interaction with others. The training program should emphasize positive relationships with teachers and peers, instructional methods that motivate students, be non-punative in nature and use techniques that empower students to manage their own behavior. The model must address the unique learning needs of blind and visually impaired students.

Training would be provided to approximately 125 teaching and administrative staff during the 1997 spring semester.

REVIEW CRITERIA: Reviewers will use the following criteria to evaluate proposals:

- (1) the proposal addresses the explicit purpose of this consultant proposal request.
- (2) the applicant has demonstrated a high level of expertise in developing social skills for children and youth with special needs.
- (3) the applicant has demonstrated a high level of expertise in developing social skills for children and youth who have been unable to develop and maintain social skills in local school settings.

(4) the applicant model must address or be applicable to the unique needs of blind and visually impaired learners as well as the students' ability to monitor and give feedback to peers.

(5) the applicant agrees to provide training sessions at the TSBVI campus during the spring semester.

Contact Person: Requests for further information regarding this request for proposal should be directed to Dr. Phil Hatlen, Superintendent, TSBVI, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Deadline for Submission of Proposals: Deadline for the receipt of proposals in the office of TSBVI is March 17 at 4:00 p.m. Proposals received after 4:00 p.m. will not be considered. Proposals are to be addressed to Dr. Phil Hatlen, Superintendent, Texas School for the

Blind and Visually Impaired, 1100 West 45th Street, Austin, Texas 78756.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702875

Dr. Phil Hatlen

Superintendent

Texas School for the Blind and Visually Impaired

Filed: February 28, 1997

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Comptroller of Public Accounts

Local Sales Tax Rate Changes Effective April 1, 1997

A 1/2% special purpose district sales and use tax will become effective April 1, 1997 in the special purpose districts listed below.

<u>SPD Name</u>	<u>Local Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Jim Hogg County Health Services	5124500	.005000	See Note 1
Schleicher County Health Services	5207500	.005000	See Note 2

Note 1: The boundaries for Jim Hogg County Health Services are the same boundaries as Jim Hogg County. The total rate for the six cities in the county that have not adopted city sales tax and for the unincorporated areas of Jim Hogg County will be .067500.

Note 2: The boundaries for Schleicher County Health Services are the same boundaries as Schleicher County. The City of Eldorado is currently collecting a 1% city sales tax. The total rate will be .082500. The total rate for the unincorporated areas of Schleicher County will be .072500.

Office of the Consumer Credit Commissioner

Notice of Rate Ceiling

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04, 1.05, 1.11, and 15.02).

Issued in Austin, Texas, on February 28, 1997.

TRD-9702891

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Filed: February 28, 1997

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽³⁾/Agricultural/ Commercial ⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/04/97-03/09/97	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) ⁽¹⁾	03/01/97-03/31/97	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/97-06/30/97	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	04/01/97-06/30/97	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) ⁽³⁾	04/01/97-06/30/97	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	04/01/97-06/30/97	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	04/01/97-06/30/97	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/97-03/31/97	10.00%	10.00%

(1)For variable rate commercial transactions only. (2)Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3)Credit for personal, family or household use. (4)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 25, 1997.

TRD-9702787

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 27, 1997

Texas Department of Health

Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Cosmetic Laser Center (laser registration number-Z01111) of San Antonio to cease and desist operating any sources of laser radiation in Texas until a licensed physician has been obtained to supervise the safe and effective application of radiation to patients. The bureau determined that the unsupervised application of laser radiation to patients by individuals not licensed to practice the healing arts may result in the patients receiving exposures in excess of that required for diagnosis or treatment. These potential excessive doses constitute an immediate threat to public health and safety, and the existence of an emergency. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to obtain this licensed physician.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on February 28, 1997.

TRD-9702908

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: February 28, 1997

Notice of Public Hearings for the Medically Dependent Children Program Rules

The Texas Department of Health will hold public hearings to receive public comments on the proposed rules concerning the operation of the Medically Dependent Children Program (25 Texas Administration Code, Chapter 34). A comparison of the current program rules and the proposed changes will be available at each hearing. All hearings will be held from 6:30 p.m. to 8:30 p.m. at the following locations:

March 11, 1997, Amarillo Central Library, Room A, 413 East 4th Street, Amarillo, Texas.

March 12, 1997, Texas Department of Health, 1351 East Bardin Road, Arlington, Texas.

March 13, 1997, Regional Training and Development Center, 1530 Loop 323, S.W., Tyler, Texas.

March 18, 1997, Texas Department of Health, 1100 West 49th Street, Main Building, Lecture Hall, Austin, Texas.

March 19, 1997, Texas Department of Health, 7430 Lcuis Pasteur Drive, Conference Room 130, San Antonio, Texas.

March 20, 1997, Texas Department of Health, 5425 Polk Avenue, Houston, Texas.

March 25, 1997, Angelo State University, Houston Harte University Center, Room 203, 2601 West Avenue N, San Angelo, Texas.

March 26, 1997, Texas Department of Health, 2301 North Big Spring, Midland, Texas.

April 3, 1997, Driscoll Health Center, 2nd Floor, 3455 South Alameda, Corpus Christi, Texas.

If you unable to attend the hearings, you may submit written comments to Ms. Cheryl Silver, TDH/MDCP, 1100 West 49th Street, Austin, Texas 78756-3179, or by E-mail at csilver@wc2.tdh.state.tx.us.

Issued in Austin, Texas, on March 3, 1997.

TRD-9702930
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 3, 1997

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Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued January 30, 1997, to Robert M. Pardo, M.D., and Associates, 1216 East Sixth Street, Weslaco, Texas 78596, holder of Certificate of Registration Number R13106.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on February 28, 1997.

TRD-9702885
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 28, 1997

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Texas Department of Health, Texas Health and Human Services Commission, and Texas Department of Human Services

Notice of Public Hearing Concerning the STAR-PLUS Program

The Texas Health and Human Services Commission, Texas Department of Human Services and Texas Department of Health (TDH) will hold a public hearing concerning the STAR+PLUS Program on March 10, 1997, from 1:30 p.m. to 3:30 p.m. in the Public Hearing Room 1420 at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard Austin, Texas. The agencies will discuss the revised maximum capitation payments and actuarial methodology to be used in the Harris Service Area. STAR+PLUS Program staff will only be available to answer questions about the revised methodology. Participants may submit their questions to TDH in advance of the meeting or they may submit their questions on an index card that will be distributed during sign-in at the meeting. Advance questions may be sent to Bureau Chief, Bureau of Managed Care, Texas Department of Health, 11044 Research Boulevard, Austin, Texas 78756-3168, or fax to (512) 338-6546.

Issued in Austin, Texas, on March 3, 1997.

TRD-9702929
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 3, 1997

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Texas Department of Human Services

Report of Expenditures of Title XX Social Services Block Grant Funds

The Texas Department of Human Services has published a report describing the actual expenditures of Title XX Social Services Block Grant funds for fiscal year 1996. Free copies of the report are available to the public.

Contact Person: To obtain a copy of this report, write Terry Trimble, Interim Commissioner, Texas Department of Human Services, W-619, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on February 27, 1997.

TRD-9702840
Glenn Scott
General Counsel, Legal Services
Texas Department of Human Services
Filed: February 27, 1997

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Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for admission in Texas for USF&G Insurance Company of Wisconsin, a foreign fire and casualty company. The home office is in Brookfield, Wisconsin.

Application for a name change in Texas for Principal Life Insurance Company, a foreign life, accident and health company. The proposed new name is Dental Insurance Company of America, Inc. The home office is in Bethesda, Maryland.

Application for a name change in Texas for National Assurance Underwriters, Inc., a foreign fire and casualty company. The proposed new name is Berkley Regional Insurance Company. The home office is in Maryland Heights, Missouri.

Application for a name reservation in Texas for USABLE HMO, Inc., a foreign health maintenance organization. The home office is in Little Rock, Arkansas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702873
Bernice Ross
Deputy Chief Clerk
Filed: February 28, 1997

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Notice

The Commissioner of Insurance, or his designee, will consider approval of a request submitted by State Farm Insurance Companies proposing to use a rating manual relative to classifications and territories different than that promulgated by the Commissioner of Insurance pursuant to Texas Insurance Code Annotated, Article 5.101, §3(1). They are proposing to implement a Multiple Line Discount

that is a five percent credit applied to a personal auto policy when the insured is also the insured under either a homeowners, individual life, or individual health policy issued by any of the State Farm Companies.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless a properly filed objection, pursuant to Art. 5.101, §3(h), is made with Edna Ramon Butts, Senior Associate Commissioner, Regulation and Safety, at the Texas Department of Insurance, MC 107-2A, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702874

Bernice Ross

Deputy Chief Clerk

Filed: February 28, 1997



Texas Lottery Commission

Invitation for Bids for Retailer Playstations

The Texas Lottery Commission is soliciting bids for Retailer Playstations for the Texas Lottery Commission as provided in the Invitation for Bid.

Objectives.

The Texas Lottery requires the vendor to provide and deliver 13,500 playstations for Texas Lottery Retailers located throughout the State of Texas.

Schedule.

Event IFB Issued Date March 7, 1997

Letter of Intent Due-March 13, 1997 (11:00 A.M. CT)

Written Questions Due from Vendors-March 18, 1997 (11:00 A.M. CT)

TLC Official Response to Questions-March 21, 1997

Bid Due Date-March 26, 1997 (11:00 A.M. CT)

For a copy of the complete Invitation for Bids please contact:

Joanne Severn

Purchasing Supervisor, Texas Lottery Commission

(512) 323-3662

Issued in Austin, Texas, on February 28, 1997.

TRD-9702906

Ridgely C. Bennett

Commission Attorney

Texas Lottery Commission

Filed: February 28, 1997



Texas Low-Level Radioactive Waste Disposal Authority

Notice of Contract Award

Under the provisions of Government Code, Chapter 2254, the Texas Low-Level Radioactive Waste Disposal Authority publishes this notice of a consulting services award for developing a plan for sustainable health care in Hudspeth County to ensure the availability of emergency services to support the emergency plan for the proposed low-level radioactive waste disposal facility and to respond to the overall need for adequate health care as identified in the socioeconomic analysis of the county.

The request for consultant proposal was published in the January 21, 1997, *Texas Register* (22 TexReg 929).

The consultant proposal contract was awarded to Shoal Creek Associates, 603 West Eighteenth Street, Austin, Texas 78701 (512) 474-4773.

The total value of the amended contract is \$31,800.00. The contract period began on November 11, 1996, and will continue until August 31, 1997.

For additional information, contact Lawrence R. Jacobi, Jr., P.E., Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar, Suite 300, Austin, Texas 78752, (512) 451-5292.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702867

Lee H. Mathews

Deputy General Manager and General Counsel

Texas Low-Level Radioactive Waste Disposal Authority

Filed: February 28, 1997



Texas Department of Protective and Regulatory Services

Request for Proposal

Under the provisions of the Texas Human Resources Code, Chapter 40 and pursuant to a federal award for adoption opportunities services, the Texas Department of Protective and Regulatory Services (PRS) is requesting proposals for health and human services necessary to implement a project entitled "HAART" aka Houston Area Adoption Respite Team. These services will consist of recruiting and training respite care providers and other services to support adoptive families in need of respite care. Based on a needs assessment under the "HAART" grant, PRS intends to award a contract to a provider located in Health and Human Services Region 06 (Houston).

DESCRIPTION OF SERVICES: Recruiting and training respite care providers and supplying client support for PRS affiliated adoptive families.

ELIGIBLE APPLICANTS: Eligible applicants are public or private, profit or nonprofit agencies and individuals who have demonstrated knowledge, competence, and qualifications in developing and implementing health and human services to include 1) recruiting and training human services providers and 2) supplying client support. Historically Underutilized Businesses who meet these eligibility requirements are encouraged to apply.

CLOSING DATE FOR RECEIPT OF OFFERS: The last date that offers and modifications of offers will be received is March 31, 1997, at 4:00 p.m. PRS shall be the sole and final arbitrator of when offers are received based on a post mark prior to the closing date or a PRS log of hand delivery of offers before or on the closing date.

NECESSARY CREDENTIALS: A panel of PRS and other health and human services program management and administrative staff will assess offers and determine if potential contractors have (1) provided ample service description, (2) demonstrated relevant prior experience of organization and of key assigned staff, including proven ability to build upon and coordinate with health and human services agencies in recruiting and training respite care providers and in supplying support to special needs clients, and (3) made an offer of reasonable costs. These credentials will be necessary for the project.

AMOUNT OF AWARD AND LIMITATIONS: The amount of the award for these services shall not exceed \$93,000.00 during the period of Federal Fiscal Year 1997 (April 1997 through September 1997). Additional funds not exceeding \$100,000 may be made available to continue this project during Federal Fiscal Year 1998. Funding will be dependent upon available federal appropriations, under the federal grant for Project "HAART". PRS reserves the absolute right to reject any and all offers received in response to this notice of request for proposals, and to amend, suspend, or cancel this notice in whole or in part if it is deemed in PRS' best interest.

CONTACT PERSON: Requests for proposal packets may be obtained by writing to or calling the designated PRS purchasing officer as follows: Texas Department of Protective and Regulatory Services, Attention: Deborah Williams, PSFC Purchased Services E-559, 701 West 51st Street, P. O. Box 149030, Austin, Texas 78714-9030 (78751), at 512/438-3862. Official replies to inquiries will be in writing only from designated PRS personnel.

Issued in Austin, Texas, on March 3, 1997.

TRD-9702928

C. Ed Davis

Deputy Commissioner for Legal Services

Texas Department of Protective and Regulatory Services

Filed: March 3, 1997

Public Utility Commission of Texas

Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to P.U.C. SUBSTANTIVE RULE 23.27 for approval of a 85 station addition to the existing PLEXAR-Custom Service for the City of Fort Worth in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for 85 Station Addition to Existing PLEXAR-Custom Service for the City of Fort Worth in Fort Worth, Texas, Pursuant to P.U.C. SUBSTANTIVE RULE 23.27. Tariff Control Number 17114.

The Application. Southwestern Bell Telephone Company is requesting approval for an 85 station addition to the existing PLEXAR-Custom service for the City of Fort Worth in Fort Worth, Texas.

The geographic service market for this specific service is the Fort Worth exchange.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

Issued in Austin, Texas, on February 26, 1997.

TRD-9702781

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 26, 1997

Public Notices of Amendment to Service Provider Certificate of Operating Authority

On February 25, 1997, North American Teleco, Inc. filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider of operating authority (SPCOA) granted in SPCOA Certificate Number 60053. Applicant intends to change its name from North American Teleco, Inc. to American PhoneCom, Inc. Applicant's requested SPCOA geographic area will not change from that originally granted.

The Application: Application of North American Teleco, Inc. for Amendment to its Service Provider Certificate of Operating Authority, Docket Number 17118.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at Public Utility Commission of Texas, 1701 North Congress Avenue, Austin, Texas or by mail at P. O. Box 13326, Austin, Texas, 78711-3326, no later than March 17, 1997. You may contact the PUC Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 17118.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702872

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 28, 1997

On February 14, 1997, Metro Connection, Inc. filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider of operating authority (SPCOA) granted in SPCOA Certificate Number 60059. Applicant has requested to expand the SPCOA geographic area originally granted to include those areas in Texas currently served by Sugarland Telephone Company, Texas-Alltel, Inc., Lufkin-Conroe Telephone Exchange, Inc., Eastex Telephone Cooperative, Livingston Telephone Company and Fort Bend Telephone Company.

The Application: Application of Metro Connection, Inc. for Amendment to its Service Provider Certificate of Operating Authority, Docket Number 16710.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at Public Utility Commission of Texas, 1701 North Congress Avenue, Austin, Texas or by mail at P. O. Box 13326, Austin, Texas, 78711-3326, no later than March 17, 1997. You may contact the PUC Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 16710.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702868

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 28, 1997

On February 14, 1997, Choctaw Communications, L.L.C. filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider of operating authority (SPCOA) granted in SPCOA Certificate Number 60052. Applicant has requested to expand the SPCOA geographic area originally granted to include those areas in Texas currently served by Sugarland Telephone Company, Texas-Alltel, Inc., and Lufkin-Conroe Telephone Exchange, Inc.

The Application: Application of Choctaw Communications, L.L.C. for Amendment to its Service Provider Certificate of Operating Authority, Docket Number 16709.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at Public Utility Commission of Texas, 1701 North Congress Avenue, Austin, Texas or by mail at P. O. Box 13326, Austin, Texas, 78711-3326, no later than March 17, 1997. You may contact the PUC Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 16709.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702869

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 28, 1997

On February 14, 1997, E Z Talk, L.L.C. filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider of operating authority (SPCOA) granted in SPCOA Certificate Number 60049. Applicant has requested to expand the SPCOA geographic area originally granted to include those areas in Texas currently served by Sugarland Telephone Company, Texas-Alltel, Inc., Lufkin-Conroe Telephone Exchange, Inc., Eastex Telephone Cooperative, Livingston Telephone Company, and Fort Bend Telephone Company.

The Application: Application of E Z Talk, L.L.C. for Amendment to its Service Provider Certificate of Operating Authority, Docket Number 16708.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at Public Utility Commission of Texas, 1701 North Congress Avenue, Austin, Texas or by mail at P. O. Box 13326, Austin, Texas, 78711-3326, no later than March 17, 1997. You may contact the PUC Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 16708.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702870

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 28, 1997

On February 14, 1997, Fast Connections, Inc. filed an application with the Public Utility Commission of Texas (PUC) to amend its service provider of operating authority (SPCOA) granted in SPCOA Certificate Number 60045. Applicant has requested to expand the SPCOA geographic area originally granted to include those areas in Texas currently served by Sugarland Telephone Company, Texas-Alltel, Inc. and Lufkin-Conroe Telephone Exchange, Inc.

The Application: Application of Fast Connections, Inc. for Amendment to its Service Provider Certificate of Operating Authority, Docket Number 16707.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission at Public Utility Commission of Texas, 1701 North Congress Avenue, Austin, Texas or by mail at P. O. Box 13326, Austin, Texas, 78711-3326, no later than March 17, 1997. You may contact the PUC Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 16707.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702871

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: February 28, 1997

Public Notice of Interconnection Agreement

On January 23, 1997, Southwestern Bell Telephone Company (SWB) and Easy Cellular, Inc. (Easy Cellular), collectively referred to as Applicants, filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated article 1446c-0 Vernon Supplement 1997). The joint application has been designated

Docket Number 16937. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16937. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by March 20, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 16937.

Issued in Austin, Texas, on February 26, 1997.

TRD-9702780

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: February 26, 1997

Texas Savings and Loan Department

Notice of Application to Acquire Control of a Savings and Loan Association

Notice is hereby given that on February 26, 1997, application was filed with the Savings and Loan Commissioner of Texas by: John W. Adams, Jeffrey A. Smith, and Edward Z. Safady, for approval to acquire control of Life Savings Bank, SSB, Austin, Texas. This application is filed pursuant to rule 7 TAC §§75.121-127 of the Rules and Regulations Applicable to Texas Savings Banks. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

Issued in Austin, Texas, on February 27, 1997.

TRD-9702794

James L. Pledger
Commissioner
Texas Savings and Loan Department
Filed: February 27, 1997

Texas Department of Transportation

Public Notice

In the January 31, 1997 issue of the *Texas Register* (22 TexReg 1276), the Texas Department of Transportation issued a public notice requesting interested architects and engineers, and their related subproviders, to submit information for precertification by the department to perform work on architectural or engineering contracts. The notice stated that those who submitted applications prior to March 1, 1997 would be notified of approval or rejection by April 1, 1997.

Due to the large response to this notice, the department is extending the March 1 deadline to March 21, 1997 to allow adequate time for all interested parties to complete precertification applications. The department intends to give equal attention and priority to all applications received. For any applicant who submits the required documentation prior to Friday, March 21, 1997, at 5:00 p.m., the department will make every effort to notify them within 60 days of approval, rejection, or the necessity that further information is needed.

Interested parties who submit applications after March 21, 1997, will also be notified within 60 days of either approval or rejection of the application.

Completed applications should be mailed to the Texas Department of Transportation, Design Division, Attention: Consultant Review Committee, 125 East 11th Street, Austin, Texas 78701-2483.

Further information is available by contacting TxDOT Design Division, either Sandi Carmona at (512) 416-2218 or Carla Greaney at (512) 416-2321.

Issued in Austin, Texas, on February 28, 1997.

TRD-9702890

Robert E. Shaddock
General Counsel
Texas Department of Transportation
Filed: February 28, 1997

◆ ◆ ◆
Texas Water Development

Public Hearing Notice

An attorney with the Texas Water Development Board will conduct a public hearing beginning at

10:00 a.m., April 11, 1997

Room 118

Stephen F. Austin Building

1700 North Congress Avenue

Austin, Texas 78711

on a proposed Federal Fiscal Year 1997 Intended Use Plan for the Drinking Water State Revolving Fund (DWSRF). The Intended Use Plan (IUP) contains a listing of water treatment projects in priority ranking order which will be considered for funding in FY 97 through the Drinking Water State Revolving Fund program. The proposed Intended Use Plan has been prepared pursuant to rules for the Drinking Water State Revolving Fund as adopted by the Texas Water Development Board in 31 TAC Chapter 371.

Interested persons are encouraged to attend the hearing and to present relevant and material comments concerning the proposed Intended Use Plan. In addition, persons may participate in the hearing by mailing written comments before April 11, 1997 to Frank R. Forsyth, Jr., Chief, Project Support Section, Engineering Division, Texas Water Development Board, P.O. Box 13231, Capitol Station, Austin, Texas 78711. After the April 11, 1997 hearing, comments will continue to be accepted for an additional 30 days. Copies of the proposed 1997 Intended Use Plan will be available in Room 543 of the Stephen F. Austin Building or may be obtained from the Engineering Division, Texas Water Development Board, P. O. Box 13231, Capitol Station, Austin, Texas 78711, on March 11, 1997.

The hearing is being conducted pursuant to 31 TAC Chapter 371 (Rules of the Texas Water Development Board).

Issued in Austin, Texas, on February 27, 1997.

TRD-9702797

Craig D. Pedersen

Executive Administrator

Texas Water Development

Filed: February 27, 1997

◆ ◆ ◆

Name: Clint Nosig
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



TAC Titles Affected

The following is a list of the administrative rules that were published in the February 4-February 28, 1997 issues.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §3.11, §3.12	1885
1 TAC §3.21	1885
1 TAC §§3.31-3.34	1885
1 TAC §§3.41-3.53	1886
1 TAC §§3.61-3.84	1886
1 TAC §§3.91-3.96	1886
1 TAC §§3.100-3.107	1886
1 TAC §§3.401-3.438	1886
1 TAC §§3.501-3.540	1886
1 TAC §§3.601-3.644	1887
1 TAC §§3.701-3.706	1887
1 TAC §§3.721-3.725	1887
1 TAC §§3.741-3.744	1887
1 TAC §§3.761-3.763	1887
1 TAC §3.811, §3.812	1885
1 TAC §3.821	1888
1 TAC §§3.831-3.838	1888
1 TAC §§3.841-3.843	1888
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1 TAC §111.23	1391
1 TAC §111.63	1625
1 TAC §119.1	1625
1 TAC §§141.1-141.3	1625
1 TAC §143.1	1626
1 TAC §§145.1-145.23	1626
1 TAC §147.1	1626

Part XV. Health and Human Services Commission

1 TAC §353.1 §353.2	1800
1 TAC §§353.101-353.105	1800
1 TAC §§353.201-353.204	1801
1 TAC §§353.301-353.304	1801

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §19.101	1801
4 TAC §19.141	1311
4 TAC §19.142, §19.143	1311
4 TAC §22.3	1713

Part III. Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

4 TAC §63.2	1627
4 TAC §63.7	1627
4 TAC §63.8	1627
4 TAC §63.9	1628
4 TAC §65.51	1557

TITLE 7. BANKING AND SECURITIES

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7 TAC §15.4	1311
7 TAC §15.8	1312
7 TAC §15.101, 15.116	1287
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7 TAC §15.122	1298, 1309
7 TAC §29.2	1302

Part VI. Credit Union Department

7 TAC §93.17	1365
7 TAC §97.113	1871

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

10 TAC §49.5	2353
10 TAC §49.9	1802

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §§3.49, 3.52, 3.53 1313
16 TAC §9.183 1713
16 TAC §9.184 1714
16 TAC §9.255 1703

Part II. Public Utility Commission of Texas

16 TAC §23.103 1802

Part III. Texas Alcoholic Beverage Commission

16 TAC §45.105 1783
16 TAC §45.109 1783

Part IV. Texas Department of Licensing and Regulation

16 TAC §§60.80-60.82 1558

Part VI. Texas Motor Vehicle Commission

16 TAC §103.4 1366
16 TAC §103.9 1714

Part IX. Texas Lottery Commission

16 TAC §401.310 2353
16 TAC §402.567 2353

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19 TAC §§9.211-9.216 1392
19 TAC §11.51, §11.55 1392
19 TAC §12.52 1931
19 TAC §21.28 1931
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19 TAC §§21.1033, 21.1035, 21.1036,
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19 TAC §§25.1, 25.2, 25.3 1936
19 TAC §§25.4-25.11 1937

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19 TAC §§66.27, 66.60, 60.66 1939
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19 TAC §109.51, §109.52 1940
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19 TAC §§120.1-120.5 2091
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22 TAC §391.3 1784
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22 TAC §501.2 1889
22 TAC §501.36 1872
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22 TAC §511.74 1874
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22 TAC §511.143 1878
22 TAC §523.32 1878
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22 TAC §571.17 1808
22 TAC §573.8 1808
22 TAC §573.67 1808

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22 TAC §761.5 1786

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 37 TAC §13.106 1892
 37 TAC §17.11 1828
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37 TAC §300.5 1671

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37 TAC §425.401 1792
 37 TAC §427.7 1792
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 37 TAC §441.7 1795
 37 TAC §453.3 1793
 37 TAC §473.11 1880
 37 TAC §481.13 1880

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40 TAC §§12.3, 12.5, 12.6, 12.14, 12.15, 12.19, 12.20, 12.24-12.26 1596
 40 TAC §15.435 1892
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40 TAC §362.1.....	1897
40 TAC §365.1.....	1898
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43 TAC §2.41, §2.45.....	1606
43 TAC §§9.50-9.61..	1609

February - December 1997 Publication Schedule

The following is the February-December 1997 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. No issues will be published on May 30, November 14, December 2, and December 30. An asterisk beside a publication date indicates that the deadlines are early due to state holidays.

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
9 Tuesday, February 4	Monday, January 27	Wednesday, January 29	Wednesday, January 29
10 Friday, February 7	Wednesday, January 29	Monday, February 3	Monday, February 3
11 Tuesday, February 11	Monday, February 3	Wednesday, February 5	Wednesday, February 5
12 Friday, February 14	Wednesday, February 5	Monday, February 10	Monday, February 10
13 Tuesday, February 18	Monday, February 10	Wednesday, February 12	Wednesday, February 12
14 Friday, February 21	Wednesday, February 12	*Friday, February 14	*Friday, February 14
15 Tuesday, February 25	*Friday, February 14	Wednesday, February 19	Wednesday, February 19
16 Friday, February 28	Wednesday, February 19	Monday, February 24	Monday, February 24
17 Tuesday, March 4	Monday, February 24	Wednesday, February 26	Wednesday, February 26
18 Friday, March 7	Wednesday, February 26	Monday, March 3	Monday, March 3
19 Tuesday, March 11	Monday, March 3	Wednesday, March 5	Wednesday, March 5
20 Friday, March 14	Wednesday, March 5	Monday, March 10	Monday, March 10
21 Tuesday, March 18	Monday, March 10	Wednesday, March 12	Wednesday, March 12
22 Friday, March 21	Wednesday, March 12	Monday, March 17	Monday, March 17
23 Tuesday, March 25	Monday, March 17	Wednesday, March 19	Wednesday, March 19
24 Friday, March 28	Wednesday, March 19	Monday, March 24	Monday, March 24

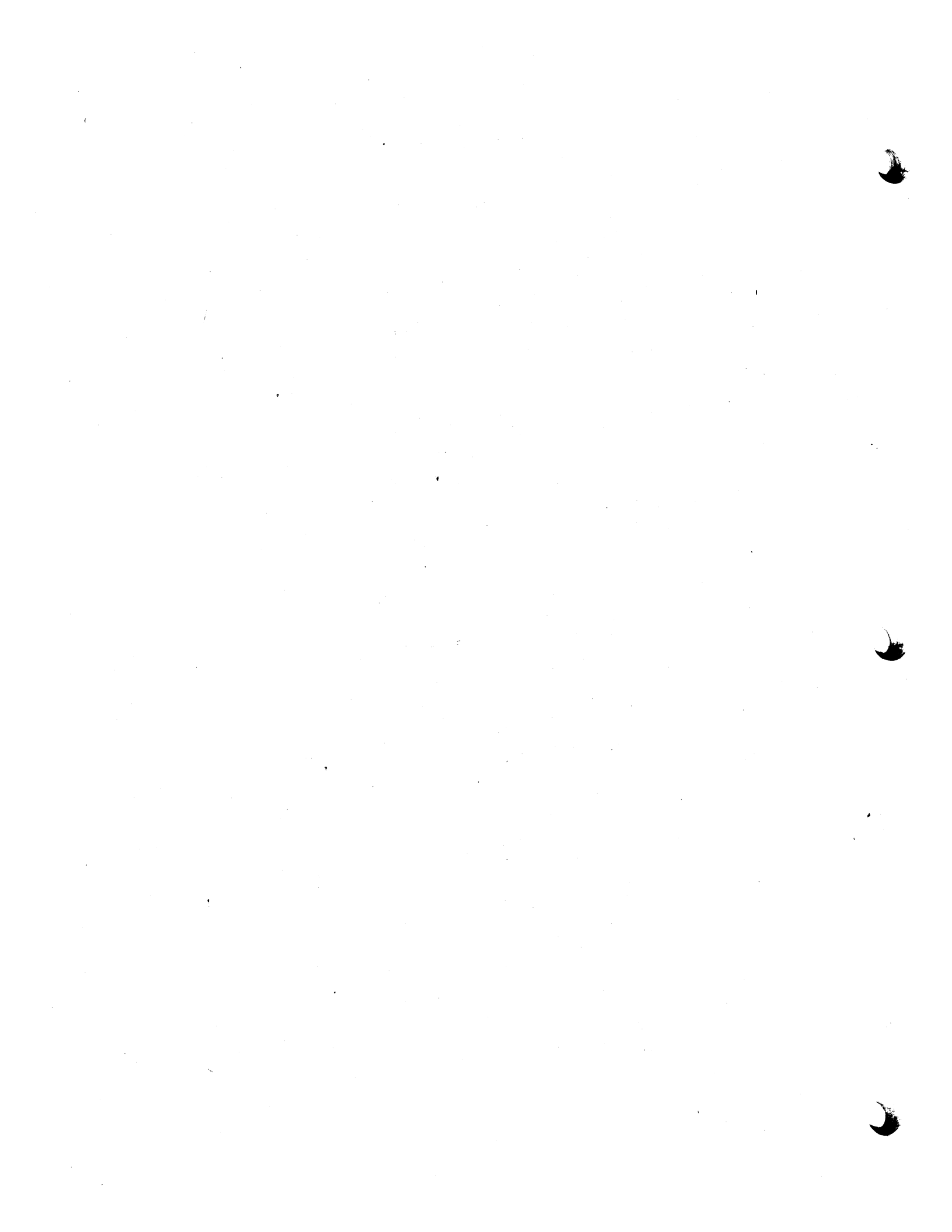
FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
25 Tuesday, April 1	Monday, March 24	Wednesday, March 26	Wednesday, March 26
26 Friday, April 4	Wednesday, March 26	Monday, March 31	Monday, March 31
Tuesday, April 8	<i>First Quarterly Index</i>		
27 Friday, April 11	Wednesday, April 2	Monday, April 7	Monday, April 7
28 Tuesday, April 15	Monday, April 7	Wednesday, April 9	Wednesday, April 9
29 Friday, April 18	Wednesday, April 9	Monday, April 14	Monday, April 14
30 Tuesday, April 22	Monday, April 14	Wednesday, April 16	Wednesday, April 16
31 Friday, April 25	Wednesday, April 16	Monday, April 21	Monday, April 21
32 Tuesday, April 29	Monday, April 21	Wednesday, April 23	Wednesday, April 23
33 Friday, May 2	Wednesday, April 23	Monday, April 28	Monday, April 28
34 Tuesday, May 6	Monday, April 28	Wednesday, April 30	Wednesday, April 30
35 Friday, May 9	Wednesday, April 30	Monday, May 5	Monday, May 5
36 Tuesday, May 13	Monday, May 5	Wednesday, May 7	Wednesday, May 7
37 Friday, May 16	Wednesday, May 7	Monday, May 12	Monday, May 12
38 Tuesday, May 20	Monday, May 12	Wednesday, May 14	Wednesday, May 14
39 Friday, May 23	Wednesday, May 14	Monday, May 19	Monday, May 19
40 Tuesday, May 27	Monday, May 19	Wednesday, May 21	Wednesday, May 21
Friday, May 30	<i>No Issue Published</i>		
41 Tuesday, June 3	*Friday, May 23	Wednesday, May 28	Wednesday, May 28
42 Friday, June 6	Wednesday, May 28	Monday, June 2	Monday, June 2
43 Tuesday, June 10	Monday, June 2	Wednesday, June 4	Wednesday, June 4
44 Friday, June 13	Wednesday, June 4	Monday, June 9	Monday, June 9
45 Tuesday, June 17	Monday, June 9	Wednesday, June 11	Wednesday, June 11
46 Friday, June 20	Wednesday, June 11	Monday, June 16	Monday, June 16

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
47 Tuesday, June 24	Monday, June 16	Wednesday, June 18	Wednesday, June 18
48 Friday, June 27	Wednesday, June 18	Monday, June 23	Monday, June 23
49 Tuesday, July 1	Monday, June 23	Wednesday, June 25	Wednesday, June 25
50 Friday, July 4	Wednesday, June 25	Monday, June 30	Monday, June 30
51 Tuesday, July 8	Monday, June 30	Wednesday, July 2	Wednesday, July 2
Friday, July 11	<i>Second Quarterly Index</i>		
52 Tuesday, July 15	Monday, July 7	Wednesday, July 9	Wednesday, July 9
53 Friday, July 18	Wednesday, July 9	Monday, July 14	Monday, July 14
54 Tuesday, July 22	Monday, July 14	Wednesday, July 16	Wednesday, July 16
55 Friday, July 25	Wednesday, July 16	Monday, July 21	Monday, July 21
56 Tuesday, July 29	Monday, July 21	Wednesday, July 23	Wednesday, July 23
57 Friday, August 1	Wednesday, July 23	Monday, July 28	Monday, July 28
58 Tuesday, August 5	Monday, July 28	Wednesday, July 30	Wednesday, July 30
59 Friday, August 8	Wednesday, July 30	Monday, August 4	Monday, August 4
60 Tuesday, August 12	Monday, August 4	Wednesday, August 6	Wednesday, August 6
61 Friday, August 15	Wednesday, August 6	Monday, August 11	Monday, August 11
62 Tuesday, August 19	Monday, August 11	Wednesday, August 13	Wednesday, August 13
63 Friday, August 22	Wednesday, August 13	Monday, August 18	Monday, August 18
64 Tuesday, August 26	Monday, August 18	Wednesday, August 20	Wednesday, August 20
65 Friday, August 29	Wednesday, August 20	Monday, August 25	Monday, August 25
66 Tuesday, September 2	Monday, August 25	Wednesday, August 27	Wednesday, August 27
67 Friday, September 5	Wednesday, August 27	*Friday, August 29	*Friday, August 29
68 Tuesday, September 9	*Friday, August 29	Wednesday, September 3	Wednesday, September 3
69 Friday, September 12	Wednesday, September 3	Monday, September 8	Monday, September 8

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
70 Tuesday, September 16	Monday, September 8	Wednesday, September 10	Wednesday, September 10
71 Friday, September 19	Wednesday, September 10	Monday, September 15	Monday, September 15
72 Tuesday, September 23	Monday, September 15	Wednesday, September 17	Wednesday, September 17
73 Friday, September 26	Wednesday, September 17	Monday, September 22	Monday, September 22
74 Tuesday, September 30	Monday, September 22	Wednesday, September 24	Wednesday, September 24
75 Friday, October 3	Wednesday, September 24	Monday, September 29	Monday, September 29
Tuesday, October 7	<i>Third Quarterly Index</i>		
76 Friday, October 10	Wednesday, October 1	Monday, October 6	Monday, October 6
77 Tuesday, October 14	Monday, October 6	Wednesday, October 8	Wednesday, October 8
78 Friday, October 17	Wednesday, October 8	Monday, October 13	Monday, October 13
79 Tuesday, October 21	Monday, October 13	Wednesday, October 15	Wednesday, October 15
80 Friday, October 24	Wednesday, October 15	Monday, October 20	Monday, October 20
81 Tuesday, October 28	Monday, October 20	Wednesday, October 22	Wednesday, October 22
82 Friday, October 31	Wednesday, October 22	Monday, October 27	Monday, October 27
83 Tuesday, November 4	Monday, October 27	Wednesday, October 29	Wednesday, October 29
84 Friday, November 7	Wednesday, October 29	Monday, November 3	Monday, November 3
85 Tuesday, November 11	Monday, November 3	Wednesday, November 5	Wednesday, November 5
Friday, November 14	<i>No Issue Published</i>		
86 Tuesday, November 18	Monday, November 10	Wednesday, November 12	Wednesday, November 12
87 Friday, November 21	Wednesday, November 12	Monday, November 17	Monday, November 17
88 Tuesday, November 25	Monday, November 17	Wednesday, November 19	Wednesday, November 19
89 Friday, November 28	Wednesday, November 19	Monday, November 24	Monday, November 24
Tuesday, December 2	<i>No Issue Published</i>		
90 Friday, December 5	Wednesday, November 26	Monday, December 1	Monday, December 1

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
91 Tuesday, December 9	Monday, December 1	Wednesday, December 3	Wednesday, December 3
92 Friday, December 12	Wednesday, December 3	Monday, December 8	Monday, December 8
93 Tuesday, December 16	Monday, December 8	Wednesday, December 10	Wednesday, December 10
94 Friday, December 19	Wednesday, December 10	Monday, December 15	Monday, December 15
95 Tuesday, December 23	Monday, December 15	Wednesday, December 17	Wednesday, December 17
96 Friday, December 26	Wednesday, December 17	Monday, December 22	Monday, December 22
Tuesday, December 30	<i>No Issue Published</i>		





How to Use the Texas Register

Information Available: The 13 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 a 30-day 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.

Open Meetings - notices of open meetings.

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

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes 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 22 (1997) is cited as follows: 22 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 "22 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 22 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 through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in a plain text version as well as a .pdf (portable document format) version through the Internet. In addition to the Internet version, the *Texas Register* is available online through a dialup bulletin board and as ASCII files on diskette. For subscription information, see the back cover or call the Texas Register at (800) 226-7199.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the official

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. West Publishing Company, the official publisher of the TAC, publishes on an annual basis.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman 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.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

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 *Table of TAC Titles Affected*. The table is published cumulatively in the blue cover quarterly indexes to the *Texas Register* (January 28, April 8, July 11, and October 7, 1997). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

Update by FAX: An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561 or (800) 226-7199.

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