

TEXAS REGISTER

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Texas Register



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How to Use the Texas Register

Information Available: The 11 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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date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.

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 20 (1995) is cited as follows: 20 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 "20 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 20 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.

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. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

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 21, April 15, July 12, and October 11, 1994). 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.

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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.

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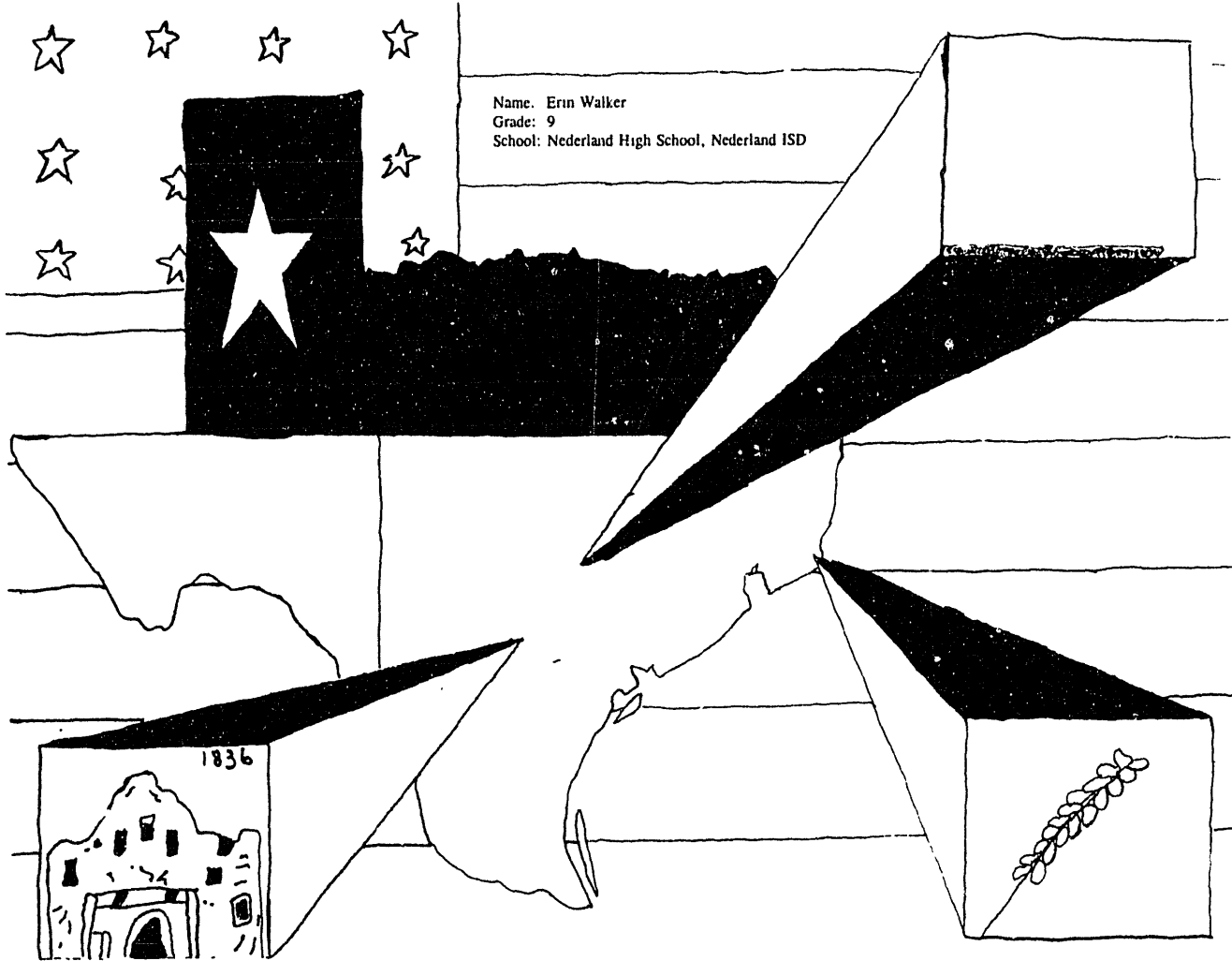
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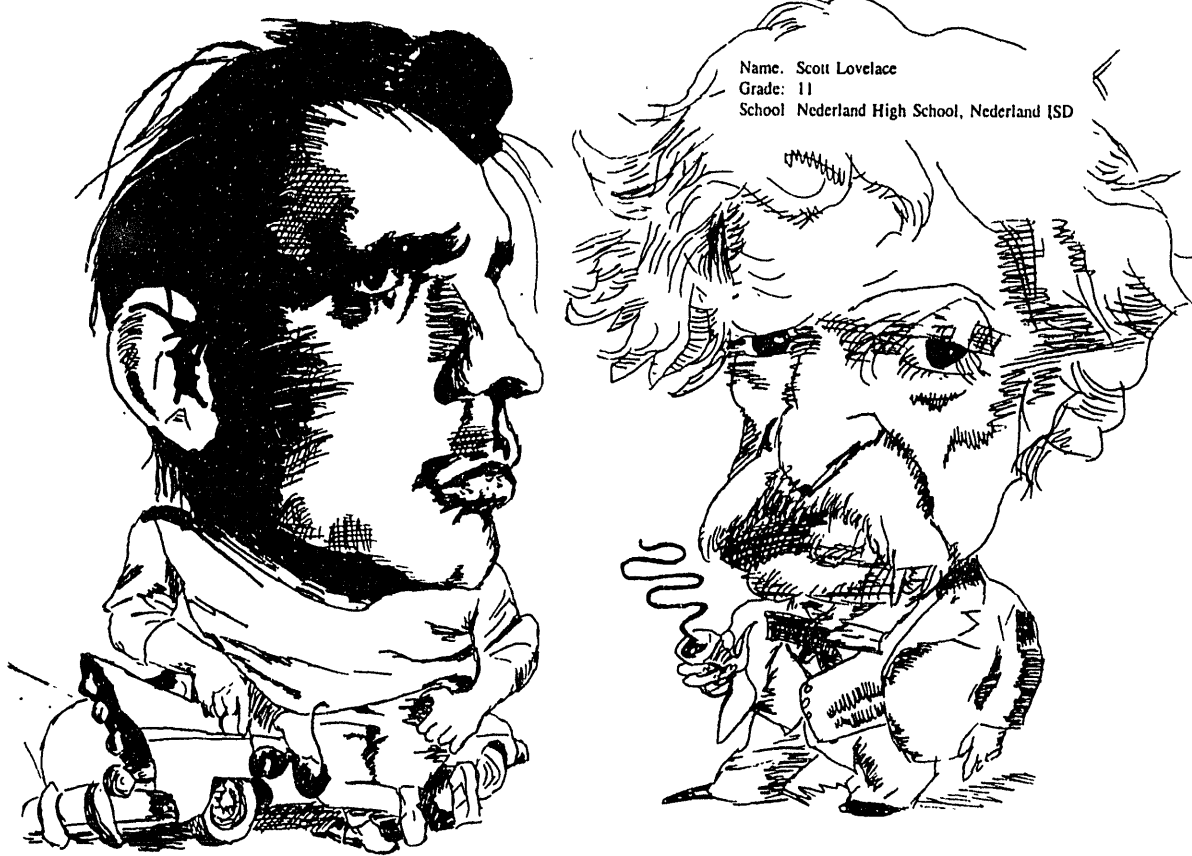
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Name: Erin Walker
Grade: 9
School: Nederland High School, Nederland ISD



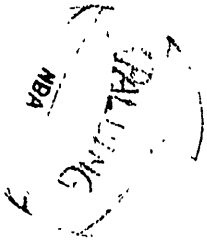
Name: Scott Lovelace
Grade: 11
School: Nederland High School, Nederland ISD



Scott Lovelace

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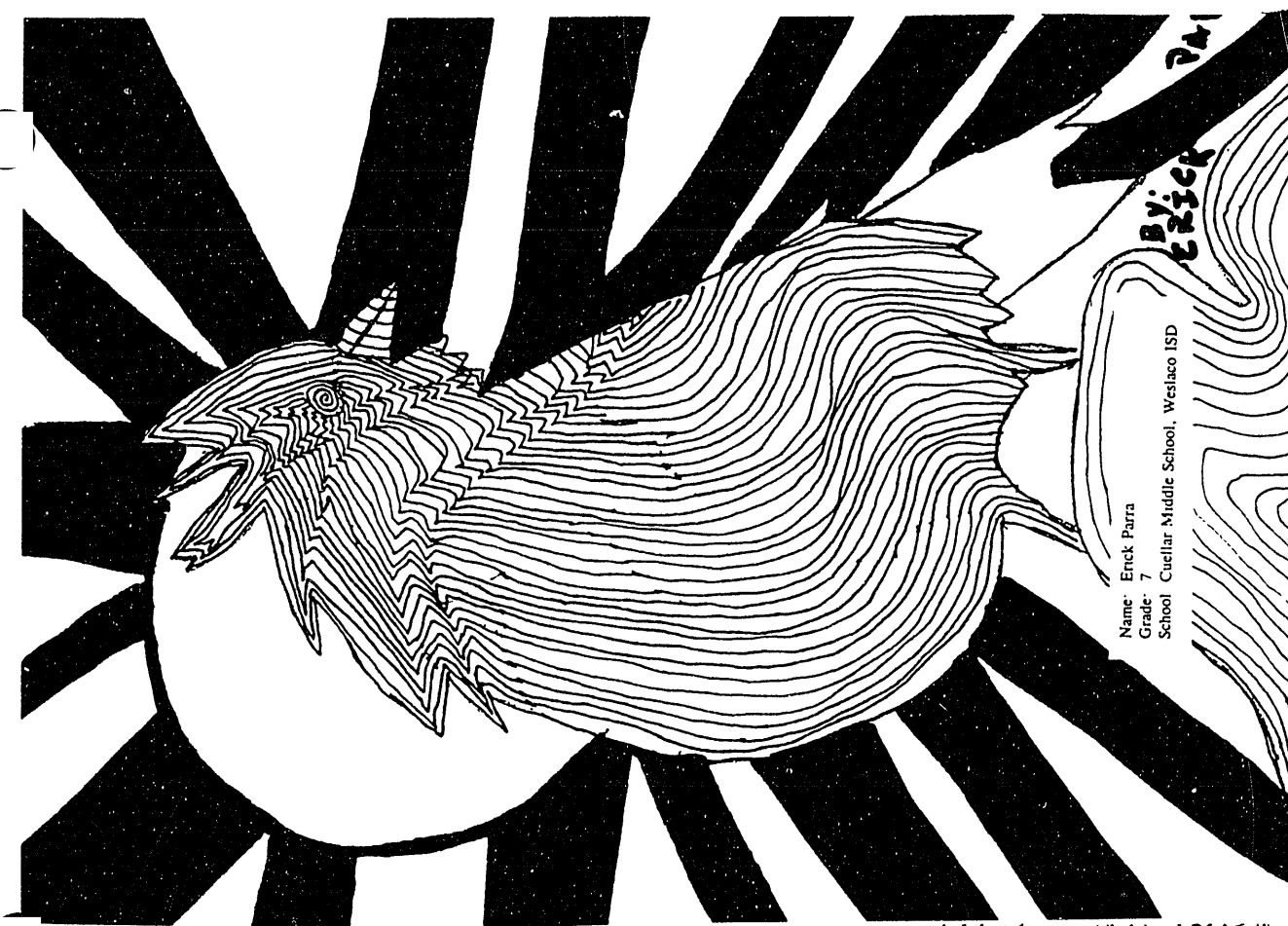
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Name: Ryan Richard
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Name: Kurt Gunner
Grade: 9
School: Nederland High School, Nederland ISD



Name: Erick Parra
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Name: Diego Gomez
Grade: 7
School: Cuellar Middle School, Westlaco ISD



Name Sandy Lozoya
Grade 8
School Cuellar Middle School, Weslaco ISD

Sandy Lozoya



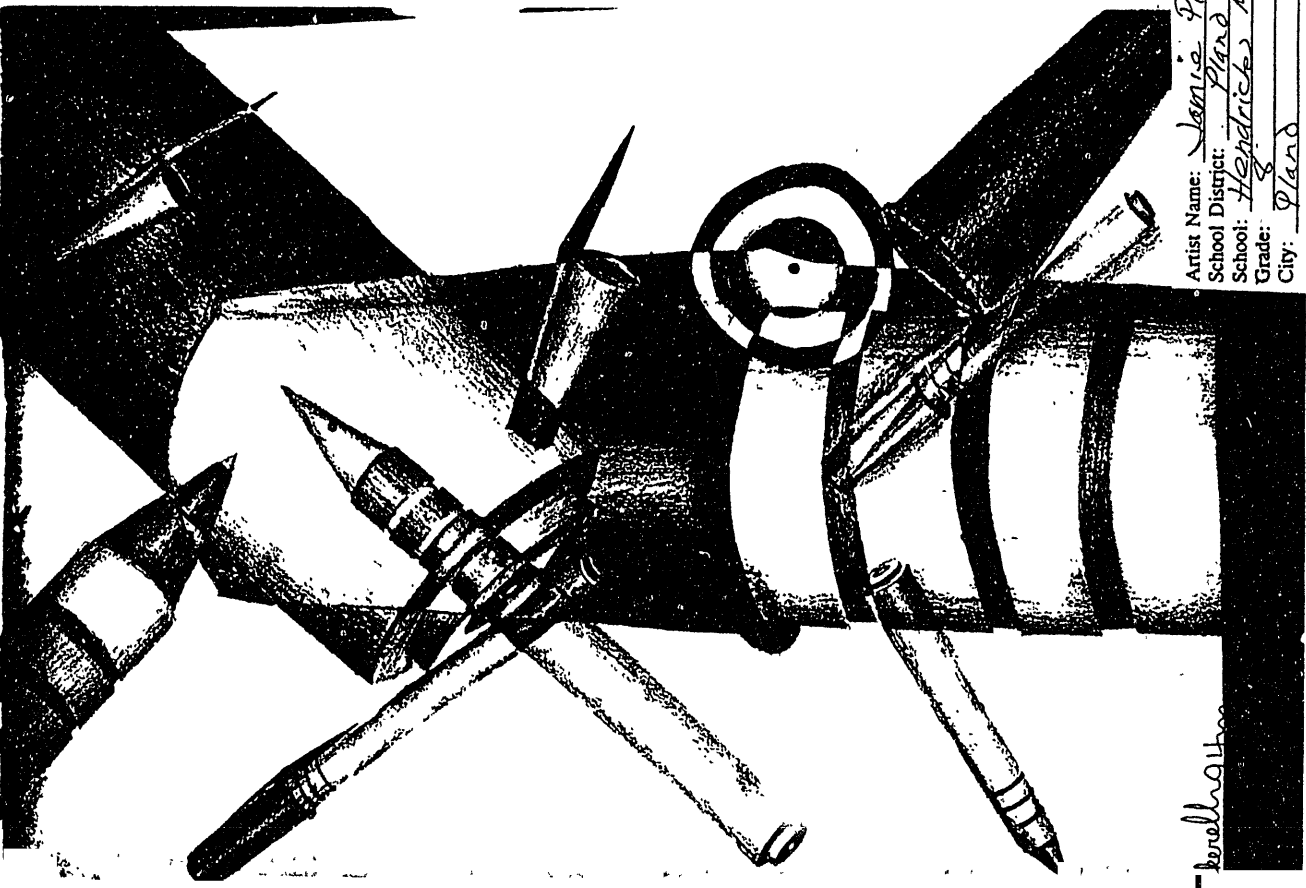
Name James Regalado
Grade 8
School Cuellar Middle School, Weslaco ISD

James Regalado



Artist Name: Justin Searcy
School District: Plano ISD
School: Hendricks MS
Grade: 7
City: Plano

Justin Searcy

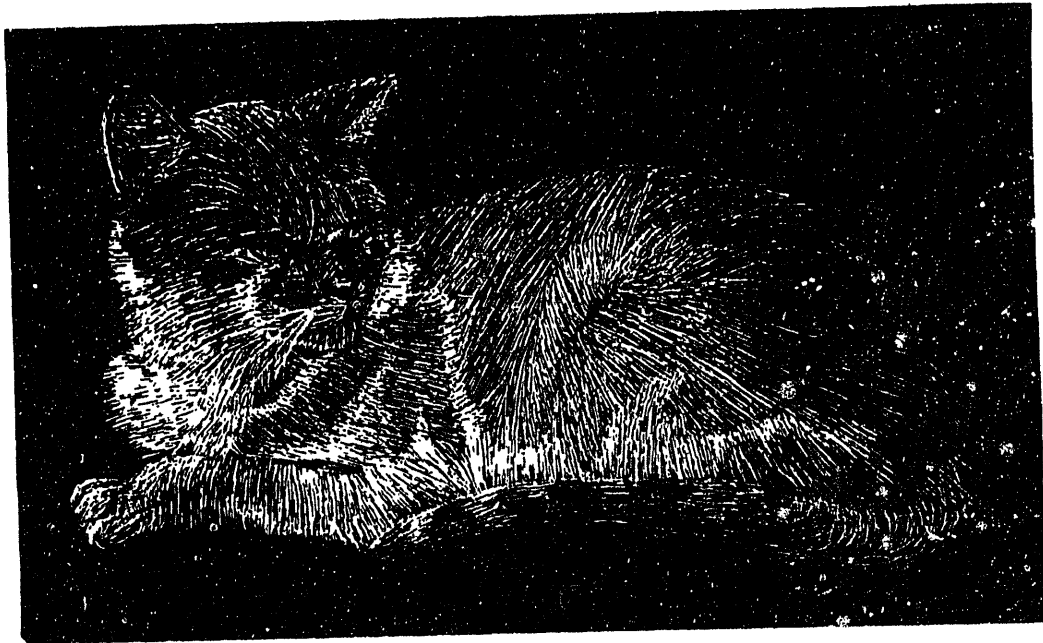


Artist Name: Jamie Pickorell
School District: Plano
School: Hendricks MS
Grade: 8
City: Plano

Jamie Pickorell



Artist Name: Beth Reuter
School District: Plano ISD
School: Hendricks MS
Grade: 8
City: Plano



7/10/85

Artist Name: Tania Liebowitz
School District: Plano ISD
School: Hendricks MS
Grade: 8
City: Plano

EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the **Texas Register**, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

Symbology in amended emergency sections. 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 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 183. Acupuncture

• 22 TAC §183.17

The Texas State Board of Medical Examiners adopts on an emergency basis an amendment to §183.17, concerning auricular acupuncture for treatment of chemical dependency. The amendment will extend the exemption for those persons performing only auricular acupuncture for treatment of chemical dependency to January 31, 1996, in order to allow time for the Board of Acupuncture Examiners to gather further information prior to promulgating rules.

The amendment is adopted on an emergency basis under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act. In addition, this emergency rule is authorized by the Administrative Procedure Act, Texas Government Code, §2001.034.

Reason for emergency—The exemption provided in §183.17 expires on September 30, 1995 and the Board of Acupuncture Examiners requires additional time to research the issue of licensure for those persons performing only auricular acupuncture for the treatment of chemical dependency.

Article 4495b, Subchapter F, is affected by this amendment.

§183.17. Auricular Acupuncture for Treatment of Chemical Dependency Those individuals practicing auricular acupuncture solely for the purpose of detoxification and treatment of alcohol abuse, substance abuse, or chemical dependency, shall be exempted from the provisions of this chapter until **January 31, 1996** [September 30, 1995]

Issued in Austin, Texas, on September 6, 1995

TRD-9511284

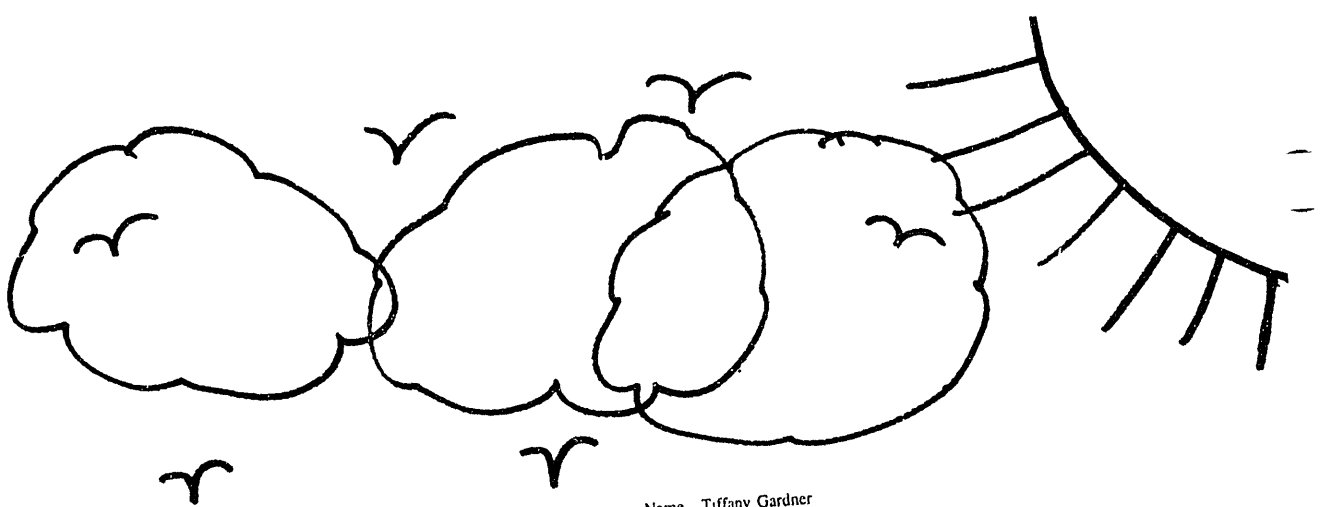
Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Effective date: September 6, 1995

Expiration date: January 4, 1996

For further information, please call (512) 834-7728

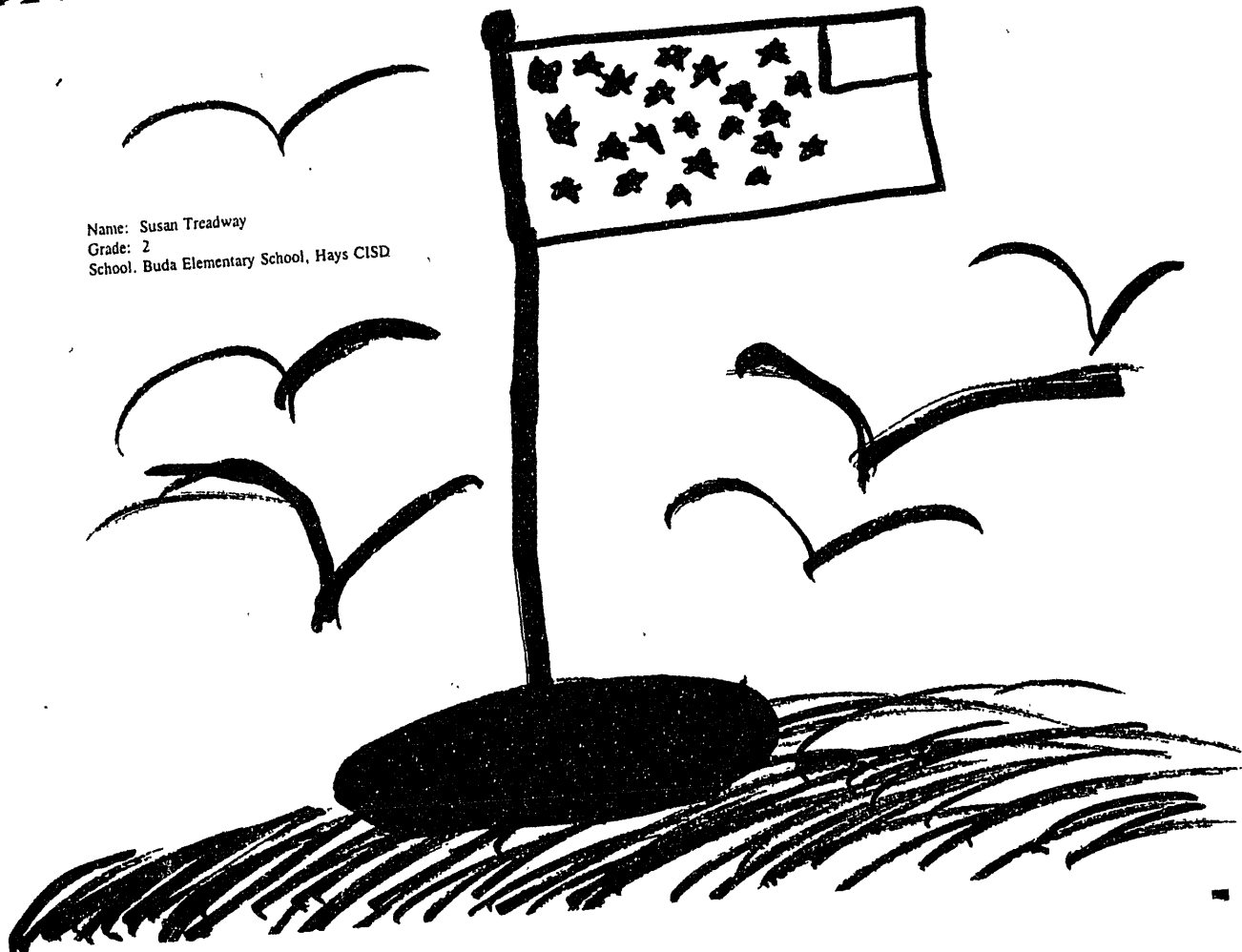




Name Tiffany Gardner
Grade 3
School Buda Elementary School, Hays CISD



Name: Susan Treadway
Grade: 2
School: Buda Elementary School, Hays CISD



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 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 73. Statutory Documents

Disclosure Statement of Conditional Gifts

• 1 TAC §73.91

The Office of the Secretary of State proposes new §73.91, concerning filing procedures with regard to conditional gifts from foreign persons to public institutions of higher education as required by 74th Legislature, Regular Session, Chapter 823, §10 and §11, 1995 (to be codified at Texas Education Code Annotated, §51.572 and §51.573). The new rule requires a public institution of higher education that receives a conditional gift from a foreign person to file the same information with the Office of the Secretary of State that it files with the federal Department of Education under 20 United States Code 1145d.

Clark Kent Ervin, assistant secretary of state, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Ervin also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient filing procedure because institutions will not have to submit different filings at the state and federal level with regard to conditional gifts from foreign persons. There will be no effect on small businesses. The proposed rule will not impose any economic cost on individuals.

Comments on the proposal may be submitted to the Office of the Secretary of State, Mark McHargue, Staff Attorney, P.O. Box 12887, Austin, Texas 78711-2887.

The new section is proposed under the 74th Legislature, Regular Session, Chapter 823, §10 and §11, 1995 (to be codified at Texas Education Code Annotated, §51.572 and §51.573), which requires the Secretary of

State to accept filings under that statute.

Texas Education Code Annotated, §51.572 and §51.573 is affected by the proposed new section.

§73.91. Disclosure Statement of Conditional Gifts From Foreign Persons.

(a) The governing board of an institution required to file a statement disclosing a conditional gift from a foreign person with the Office of the Secretary of State under Texas Education Code Annotated, §51.572 shall file such statement in the same form as that required to be filed with the federal Department of Education pursuant to 20 United States Code 1145d.

(b) An institution shall make the filing required under subsection (a) of this section with the Office of the Secretary of State on the dates specified for the filing to be made with the federal Department of Education pursuant to 20 United States Code 1145d.

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

Issued in Austin, Texas, on August 31, 1995.

TRD-9511640

Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 475-0775

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 139. Exemptions by Rule or Order

• 7 TAC §139.11

The State Securities Board proposes new §139.11, concerning an exemption for trans-

actions in United States Savings Bonds. The proposed rule would exempt the sale of any United States Series EE Savings Bond from the securities and dealer registration requirements of The Securities Act, provided that no commission or other remuneration is paid, directly or indirectly, in connection with the sale. For purposes of the section, the terms "commission" and "remuneration" do not include fees paid by the U.S. Treasury.

Micheal Northcutt, Director, Securities Registration Division, and Michael S. Gunst, Director, Dealer Registration Division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Northcutt and Mr. Gunst have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that certain persons engaging in the sale of U.S. Savings Bonds will be assured that they are in compliance with the requirements of The Securities Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new section is proposed under Texas Civil Statutes, Article 581, §5.T. and §12.B. Section 5.T and §12.B respectively provide that the Board may prescribe new transactional and dealer/agent registration exemptions by rule.

The new section affects Texas Civil Statutes, Article 581, §7 and §12.

§139.11. Transactions in United States Savings Bonds. The State Securities Board, pursuant to The Securities Act, §5.T and §12.B, exempts from the securities and dealer registration requirements of the Act, the sale of any United States Series EE Savings Bond if no commission or other remuneration is paid or given or is to be paid or given, directly or indirectly, in connection with the sale. For purposes of this section, "commission or other remuneration" does not include a fee paid by the United States Treasury.

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

Issued in Austin, Texas, on September 1, 1995

TRD-9511179 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption October 13, 1995

For further information, please call (512) 305-8300

◆ ◆ ◆
• 7 TAC §139.16

The State Securities Board proposes an amendment to §139.16, concerning an exemption from securities registration for sales to individual accredited investors. A similar proposal was previously published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5359). In response to public comment, the Board has withdrawn that earlier proposal. The significant difference between the previously published rule proposal and this proposal is that the new proposal expressly permits the dissemination of limited use advertisements by any means, direct or indirect. The new proposal, like the July 1995 proposal, would amend the existing rule to augment the disclosures that must be contained in any limited use advertisement, impose record retention requirements on issuers using the exemption, and provide a safe harbor for sales, made more than six months after the use of the limited use advertising, under other exemptions which prohibit public solicitation or advertisements.

Micheal Northcutt, Director, Securities Registration Division has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Northcutt also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the facilitation of capital raising. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rada Lynn Polts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1 and §5.T. Section 28-1 provide the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications, defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 5.T provides that the Board may prescribe new exemptions by rule.

The proposed amendment affects Texas Civil Statutes, Article 581-7.

§139.16 Sales to Individual Accredited Investors.

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

(e) Limited use advertisements. Any limited use advertisement used in connection with an offering under this section must be filed with the Securities Commissioner ten days prior to use in this state. A limited use advertisement may be disseminated by any means, direct or indirect. A limited use advertisement shall contain only the statements required or permitted to be included therein by this subsection.

(1) A limited use advertisement shall contain the following items of information

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

(D) the following statement: "The securities have not been registered with or approved by the Texas Securities Commissioner and are being offered and sold pursuant to the exemption provided by, §139.16 of the Rules and Regulations of the State Securities Board [and natural persons who are not individual accredited investors may not purchase the securities]. This advertisement was filed with the Texas Securities Commissioner on or about (fill in) date. The securities are being offered to, and may be purchased by, only those natural persons whose individual net worth, or joint net worth with that person's spouse, at the time of purchase of the securities, exceeds \$1 million or natural persons who have an individual income in excess of \$200,000 in each of the two most recent years, or joint income with that person's spouse in excess of \$300,000 in each of those years, and who have a reasonable expectation of reaching that same income level in the current year."

(2) (No change.)

(f) Any issuer relying on this exemption shall, upon written request, furnish to the Securities Commissioner the information furnished by the issuer or registered dealer to offerees. Any issuer relying on this exemption must maintain, for a period of at least three years, evidence of the basis for its belief that all purchasers were accredited investors at the time of purchase.

(g) Transactions exempt under this section may be combined with offers and sales exempt under The Securities Act, §5.H, and §109.3(c) of this title (relating to Sales to Financial Institutions and Certain Institutional Investors under The Securities Act, §5.H). In this event, the statement required by subsection (e)(1)(D) may be modified to indicate that the securities

are also being offered to eligible purchasers under §5.H and §109.3(c) of this title (relating to Sales to Financial Institutions and Certain Institutional Investors under The Securities Act, §5.H).

(h) Because this exemption permits limited use advertisements, use of this exemption under certain circumstances could result in other exemptions not being available for other sales due to prohibitions in such exemptions against public solicitation and advertisements. Therefore, issuers or registered dealers who use this exemption should take all necessary steps to document that any sales to persons who are not individual accredited investors, as defined, were not made in response to a limited use advertisement. Users of this section should consult with experienced securities counsel, especially if they anticipate selling to any persons who are not individual accredited investors, within six months of the last sale made under this section.

(i) The use of a limited use advertisement in compliance with this section and in connection with sales under this section will not render exemptions that prohibit public solicitation or advertisements unavailable to sales that are made more than six months after the use of the limited use advertisement.

(j)[(h)] Should the offer and sale of securities fail, for any reason, to comply with all the terms and conditions for use of this section, the issuer may claim the availability of any other applicable exemption. A limited use advertisement that results in an offer to a person who is not an individual accredited investor within the meaning of this section does not alone result in loss of the exemption.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511180 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 305-8300

◆ ◆ ◆

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 161. General Provision

• 22 TAC §161.1

The Texas State Board of Medical Examiners proposes an amendment to §161.1(g)(4), to change the name of the Reciprocity Committee to the Endorsement Committee.

Tim Weitz, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Weitz also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to more clearly define the function of the committee through the change of its name. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendment is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §2.09(i), is affected by this amendment.

§161.1. Meetings.

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

(g) The following are standing and permanent committees of the board, as established by the board in accordance with the Medical Practice Act. The responsibilities and authority of these committees include those duties and powers set forth below and such other responsibilities and authority which the board may from time to time delegate to these committees.

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

(4) **Endorsement [Reciprocity] Committee:**

(A) (No change.)

(B) present results of reviews of applicants for licensure by endorsement

[reciprocity] and make recommendations regarding licensure for board consideration;

(C) review board rules regarding licensure by endorsement [reciprocity], and make recommendations to the board regarding changes or implementation of such rules;

(D) make recommendations to the board regarding matters brought to the attention of the endorsement [reciprocity] committee.

(5)-(12) (No change.)

(h)-(l) (No change.)

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511280

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

Chapter 163. Licensure

• 22 TAC §§163.6-163.9, 163.11-163.13

The Texas State Board of Medical Examiners proposes amendments to §§163.6-163.9 and §§163.11-163.13, concerning licensure of physicians. Changes made during the 74th Legislature through Senate Bill 1301, as well as examination administration changes made by the Federation of State Medical Boards require amendments to the licensure rules.

Tim Weitz, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Weitz also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of rules so as to be in compliance with statute. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendments are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and

bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §§3.03, 3.04, and 3.05 are affected by these amendments.

§163.6. Procedural Rules for Licensure Applicants.

(a) (No change.)

(b) Applicants for licensure by examination:

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

(4) whose application is received by the board between August 1 and December [January] 31 will be scheduled to sit for the following May [June] examination. Applications for licensure by examinations received by the board between January [February] 1 and July 31 will be scheduled to sit for the following December examination. Applications must be complete in every detail 60 days prior to the examination before an applicant will be admitted to the examination; and

(5) (No change.)

(c) Applicants for licensure by endorsement:

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

(3) who are required to sit for a SPEX exam, will be scheduled for their examination, unless otherwise notified, based on the date the board receives their application.

[Application filed between: will be scheduled for the:

[Feb 1 and Apr 30 Sep SPEX

[May 1 and Jul 31 Dec SPEX

[Aug 1 and Oct 31 Mar SPEX

[Nov 1 and Jan 31 Jun SPEX

[Applications must be complete in every detail 60 days prior to the examination before an applicant will be admitted to the examination.]

§163.7. Licensure Documentation.

(a) (No change.)

(b) Documentation required of all applicants for licensure.

(1)-(14) (No change.)

(15) Additional Photograph. Applicants required to sit for the [FLEX,] USMLE, [or SPEX examinations] examination must submit two [a] recent photographs [photograph] that meet [meets] United States Government passport standards.

(c) (No change.)

(d) Applicants for licensure by examination who are graduates of unapproved

foreign medical schools must furnish all appropriate documentation listed in this subsection, as well as that listed in subsections (a) and (b) of this section. Applicants for licensure by endorsement who are graduates of unapproved foreign medical schools must furnish all appropriate documentation listed in this subsection, as well as that listed in subsections (a)-(c) of this section. The required documents are as follows:

(1) Educational Commission for Foreign Medical Graduates (ECFMG) certificate. Applicants must submit a copy of a valid ECFMG certificate, unless they have completed a Fifth Pathway program.

(2) Educational Commission for Foreign Medical Graduates (ECFMG) interim certificate. Each applicant that has completed a Fifth Pathway program must submit a copy of his or her ECFMG interim certificate.

(3) Educational Commission for Foreign Medical Graduates (ECFMG) Examination History Report. Each applicant must request that ECFMG furnish directly to this board a report of the number of examinations taken by the applicant leading to ECFMG certification, the result of each examination, and the type of examination taken.]

(2) [(4)] Unique Documentation. The board may request documentation unique to an individual unapproved medical school and additional documentation as needed to verify completion of medical education.

(3) [(5)] Certificate of Registration. Each applicant must provide a copy of his or her certificate to practice in the country in which his or her medical school is located. If a certificate is unavailable, a letter, submitted directly to this board, from the body governing licensure of physicians in the country in which the school is located, will be accepted. The letter must state that the applicant has met all the requirements for licensure in the country in which the school is located. If an applicant is not licensed in the country of graduation due to a citizenship requirement, a letter attesting to this, submitted directly to this board, will be required.

(4) [(6)] Clinical Clerkship Affidavit. A form, supplied by the board, to be completed by the applicant, is required listing each clinical clerkship that was completed as part of an applicant's medical education. The form will require the name of the clerkship, where the clerkship was located (name of hospital and location of hospital) and dates of the clerkship.

(e) Applicants may be required to submit other documentation, which may include the following:

(1)-(7) (No change.)

[(8) National Credentials Verification Service (NCVS). Each application that has contracted with NCVS to provide verification of documents may request that a copy of the NCVS be submitted directly to the board.]

(f) (No change.)

§163.8. Administration of Examinations.

(a) The board shall administer Step 3 of the United States Medical Licensing Examination (USMLE) [after December 31, 1993, the Federation Licensing Examination (FLEX) before January 1, 1994, the Special Purpose Examination (SPEX)] and the Texas medical jurisprudence examination in writing, at times and places as designated by the board.

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

(d) All USMLE Step 3[, FLEX, and SPEX] questions and answers, with grades attached, shall be preserved for at least one year at the National Board of Medical Examiners offices.

(e) An applicant shall not be eligible to sit for the [FLEX, SPEX, or] Texas medical jurisprudence examination[s] until the application is complete and until the applicant has made a personal appearance to have his or her required original documents inspected by a representative of the board.

(f) (No change.)

§163.9. Temporary Licensure-Regular.

(a) The executive director of the board may issue a temporary license to an endorsement applicant:

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

(4) who has met all other requirements for licensure[, except passage of SPEX if required for licensure].

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

§163.11. State Health Agency Temporary License [Permit].

(a) An endorsement applicant may elect to apply for a state health agency temporary license [permit] in lieu of licensure granted by endorsement.

(1) The executive director of the board may issue such a temporary license [permit] to an applicant:

(A) (B) (No change.)

(C) whose application has been filed, processed, and found to be in order. The application shall be complete in every detail with the exception of compli-

ance with §163.6(c)(2) [(j)] of this title (relating to Procedural Rules for all Licensure Applicants); and

(D) (No change.)

(2) The state health agency temporary license [permit] shall be requested by the chief administrative officer of the employing state agency and shall be issued exclusively to that agency. The chief administrative officer shall state whether the temporary license [permit] is for a:

(A) clinical position. This temporary license [permit] will be valid for a one-year period from the date of issuance and will not be renewable. The temporary license [permit] is revocable at any time the board deems necessary. To practice beyond one year, the holder of the temporary license [permit] must fully comply with §163.6(c)(2) [(j)] of this title (relating to Procedural Rules for all Licensure Applicants). During the period that the state health agency clinical temporary license [permit] is in effect, the physician will be supervised by a licensed staff physician who will regularly review the temporary license [permit] holder's skill and performance. This temporary license [permit] will be marked "clinical"; or

(B) administrative non-clinical position. This temporary license [permit] will be valid for a one-year period from the date of issuance; however, it is revocable at any time the board deems necessary. The temporary license [permit] shall automatically expire one year after the date of issuance but may be re-issued annually at the request of the chief administrative officer of the employing state agency and at the discretion of the Texas State Board of Medical Examiners. The holder of a state health agency temporary license [permit], not designated as clinical, shall not practice medicine as that term is defined in Texas Civil Statutes, Article 4495b, §1.03(12) [(8)](A) and (B). This temporary license [permit] will be marked "administrative."

§163.12. Relicensure.

(a) (No change.)

(b) A person may qualify for renewal of his or her original license without reexamination if that person:

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

(4) files an application for relicensure under subsection (a)(2) [(3)] of this section.

§163.13. Medical Practice Act, §3.0305. Temporary License for Out-of-State Practitioners.

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

(c) One [A] §3.0305, Temporary License for Out-of-State Practitioners is valid for 180 days [until the date the board approves or denies the temporary license for an out-of-state practitioner's application for a license]. This temporary license may be renewed for an additional 180 days at the discretion of the executive director. The board shall issue a license under this section to the holder of the temporary license under this section if:

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

(d) (No change.)

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511289 Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call (512) 834-7728

◆ ◆ ◆
• 22 TAC §§163.14-163.16

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

The Texas State Board of Medical Examiners proposes the repeal of §§163.14-163.16, concerning licensure by endorsement. Repeal of these sections was necessary to delete existing language in order to be in compliance with Senate Bill 1301, 74th Legislature, and to renumber the sections; therefore, repeal of existing language, with simultaneous new section is proposed.

Tim Weitz, general counsel, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Weitz also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be clarification of the rules by omission of existing language. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The repeals are proposed under the Medical Practice Act, Texas Civil Statutes, Article

4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §3.03 and §3.0305 are affected by these repeals

§163.14. Licensure by Endorsement for the Fifth Pathway.

§163.15. Licensure by Examination for the Fifth Pathway.

§163.16. Temporary Licensure of Primary Care Physicians for Practice in Rural Counties or Medically Underserved Areas in Texas.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511290 Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption October 13, 1995

For further information, please call (512) 834-7728

◆ ◆ ◆
• 22 TAC §163.14

The Texas State Board of Medical Examiners proposes new §163.14, concerning temporary licensure for primary care physicians for practice in rural counties or medically underserved areas in Texas. Due to changes made during the 74th Legislature, two sections were deleted from the licensure rules. This new section is proposed simply to renumber the section; there is no change in the text. This new section is proposed with simultaneous repeal of existing language

Tim Weitz, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Weitz also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be administrative clarification. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §3.03 and §3.0305 is affected by this new section.

§163.14. Temporary Licensure of Primary Care Physicians for Practice in Rural Counties or Medically Underserved Areas in Texas.

(a) This rule is adopted to provide assistance to rural counties and medically underserved areas in Texas in meeting their needs in the area of primary medical care.

(b) If the executive director of the board determines that it is in the best interest of the public and that the health and welfare of the public will not be endangered, but will be served, the executive director of the board may, at his discretion, issue a temporary license to an endorsement applicant

(1) who has a completed application that has been filed, processed, and found to be in order;

(2) who has successfully completed a three-year primary care graduate medical training program in Texas that was approved by the board on the date the training was completed;

(3) who has met all requirements for licensure, except:

(A) certification by a specialty board that is a member of the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists, if such certification is required for licensure; and

(B) valid certification by the Educational Commission for Foreign Medical Graduates, if such certification is required for licensure;

(4) who has a valid contract to provide medical services in a rural county or medically underserved area in Texas; and

(5) who has passed the Texas medical jurisprudence examination.

(c) Any temporary license issued under this section shall be valid for a continuous one-year period; however, such a temporary license may be renewed for up to two additional one-year periods, at the discretion of the executive director, only if necessary for the temporary licensee to meet any requirement relating to continuous

unsupervised medical practice set as a prerequisite for specialty board examination for the specific medical specialty in which the temporary licensee is seeking specialty board certification and to obtain a valid certificate issued by the Educational Commission for Foreign Medical Graduates.

(d) Any temporary license issued under this section shall be restricted so as to allow the temporary licensee to practice medicine only within the context of the contract for medical services in a rural county or medically underserved area in Texas.

(e) Any temporary license issued under this section shall expire upon termination of the physician's contract to practice medicine in a rural county or medically underserved area in Texas.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511291

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

Chapter 165. Medical Records

• 22 TAC §165.1

The Texas State Board of Medical Examiners proposes new §165.1, concerning medical records. The proposed new section will clarify what is required of physicians with regard to the release of medical records and will establish reasonable fees for providing such records.

Tim Weitz, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Weitz also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to set out the requirements for physicians to provide copies of medical records. There will be minimal effect on small businesses. There will be minimal anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas

State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §5.08, is affected by this new section.

§165.1. Medical Records.

(a) As required by the Medical Practice Act, §5.08(k), a physician shall furnish copies of medical records requested or a summary or narrative of the records pursuant to a written release of the information as provided by the Medical Practice Act, §5.08(j), except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient, and the physician may delete confidential information about another person who has not consented to the release.

(b) The requested copies of medical records or a summary or narrative of the records shall be furnished by the physician within 30 days after the date of the request and reasonable fees for furnishing the information shall be paid by the patient or someone on behalf of the patient.

(c) If the physician denies the request for copies of medical records or a summary or narrative of the records, either in whole or in part, the physician shall furnish the patient a written statement, signed and dated, stating the reason for the denial, and a copy of the statement denying the request shall be placed in the patient's medical records.

(d) For purposes of this chapter, "medical records" shall mean any records pertaining to the history, diagnosis, treatment or prognosis of the patient including copies of medical records of other health care practitioners contained in the records of the physician to whom a request for release of records has been made.

(e) The physician responding to a request for such information shall be entitled to receive a reasonable fee for providing the requested information. A reasonable fee shall be a charge of no more than \$25 for the first ten pages and \$.25 per page for every copy thereafter. A reasonable fee may also include a preparation fee for record retrieval compilation, organizing, and packaging; however, such a preparation fee will be an amount which is no more than \$15. In addition, a reasonable fee may include actual costs for mailing, shipping, or delivery.

(f) The physician providing copies of requested medical records or a summary or a narrative of such records shall be entitled to payment of a reasonable fee prior to release of the information unless the infor-

mation is requested by a licensed Texas health care provider or a physician licensed by any state, territory, or insular possession of the United States or any State or province of Canada if requested for purposes of emergency or acute medical care. In the event the physician receives a proper request for copies of medical records or a summary or narrative of the medical records for purposes other than for emergency or acute medical care, the physician may retain the requested information until payment is received. In the event payment is not routed with such a request, within ten calendar days from receiving a request for the release of such records for reasons other than emergency or acute medical care, the physician shall notify the requesting party in writing of the need for payment and may withhold the information until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's medical record. Medical records requested pursuant to a proper request for release may not be withheld from the patient, the patient's authorized agent, or the patient's designated recipient for such records based on a past due account for medical care or treatment previously rendered to the patient.

(g) A subpoena shall not be required for the release of medical records requested pursuant to a proper release for records under this section and the Medical Practice Act, §5.08, made by a patient or by the patient's guardian or other representative duly authorized to obtain such records.

(h) In response to a proper request for release of medical records, a physician shall not be required to provide copies of billing records pertaining to medical treatment of a patient unless specifically requested pursuant to the request for release of medical records.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511281

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

Chapter 166. Physician Registration

• 22 TAC §§166.1, 166.2, 166.4

The Texas State Board of Medical Examiners proposes amendments to §§166.1, 166.2, and 166.4, concerning physician registration. These amendments are proposed to be in

compliance with Senate Bill 1301 of the 74th Legislature, which created a 30-day grace period for physician registration and changed the penalty fees for late registration.

Tim Weitz, general counsel, has determined that for the first five-year period the sections are in effect the fiscal implications will be a reduction in revenue to the state due to collection of reduced penalty fees. The exact amount cannot be determined at this time.

Mr. Weitz also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to collect penalty fees which are reasonable and to be in compliance with recent legislation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendments are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §3.01 and 3.025 is affected by this amendment.

§166.1. Physician Registration.

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

(c) The board shall provide written notice to each practitioner at the practitioner's last known address according to the records of the board at least 30 days prior to the expiration date of a license and shall provide for a 30-day grace period for payment of the annual registration fee from the date of the expiration of the license.

§166.2. Continuing Medical Education.

(a) As a prerequisite to the annual registration of a physician's license, 24 hours of continuing medical education (CME) are required to be completed in the following categories:

(1) At least one-half of the hours are to be from formal courses that are:

(A)-(B) (No change.)

(C) designated for AOA Category 1-A credit required for osteopathic physicians by an accredited CME sponsor approved by the American Osteopathic Association; or

(D) approved by the Texas Medical Association based on standards established by the AMA for its Physician's Recognition Award. [; or

[(E) approved by the Council on Medical Specialty Societies.]

(2) (No change.)

(b)-(p) (No change.)

§166.4. Renewal of Expired License.

(a) If a physician's license has been expired for 90 days or less, the physician may renew the license by submitting a completed annual registration form and paying to the board the required renewal fee and a fee that is one-half of the annual registration fee as established by the board under the Medical Practice Act, §3.10(b)(7) [examination fee for the license].

(b) If a physician's license has been expired for longer than 90 days but less than one year, the physician may renew the license by submitting a completed annual registration form and paying to the board all unpaid renewal fees and a fee that is equal to the annual registration fee as established by the board under the Medical Practice Act, §3.10(b)(7) [examination fee for the license].

(c) If a physician's license has been expired for one year, it is considered to have been canceled, unless an investigation is pending, and the physician may not renew the license.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511282

Bruce A Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

◆ ◆ ◆ Chapter 175. Schedule of Fees and Penalties

• 22 TAC §175.1, §175.2

The Texas State Board of Medical Examiners proposes amendments to §175.1 and §175.2, concerning fees and penalties. The proposed amendments will eliminate unnecessary fees, amend penalty fees for late registration as mandated by Senate Bill 1301, and create fees for new categories of temporary licenses.

Tim Weitz, general counsel, has determined that for the first five-year period the sections are in effect the fiscal implications as a result of enforcing or administering the sections will be an estimated increase in funds for state government of \$5,000 to \$10,000 per year from collection of fees for continuing medical education temporary licenses. There will also be a loss of revenue for state government due to reduced penalty fees; however, the exact amount cannot be determined at this time.

Mr. Weitz also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to eliminate unnecessary fees, amend the fee schedule to reflect changes in recent legislation, and create new categories of temporary licenses which will allow for uninterrupted patient care. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be penalty fees of \$50 or \$100 for late registration and a fee of \$50 for those physicians issued a temporary license.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendments are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b, §3.01 is affected by this amendment.

§175.1. Fees. The board shall charge the following fees:

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

(5) examination fees (required and payable each time applicant is scheduled for examination):

(A)-(B) (No change.)

[(C) SPEX-\$275]

(6) temporary license:

(A) regular-\$50;

(B) distinguished professor-\$50;

(C) state health agency-\$50;

(D) §3.0305-\$50;

(E) rural/underserved areas-\$50;

(F) continuing medical education-\$50;

(7)-(9) (No change.)

[(10) distinguished professor annual permit-\$50;

[(11) state health agency annual permit-\$50;]

(10) processing an application for licensure as a physician assistant-\$200;

(11) processing an application for licensure as an acupuncturist-\$300;

(12) radiologic technologist registration-\$50 per annum;

(13) physician assistant annual renewal-\$150;

(14) visiting professor permit-\$10 per month;

(15) faculty temporary license-\$92 per annum;

(16) processing an application for a temporary license for a physician assistant-\$50;

(17) acupuncturist annual renewal-\$250;

(18) processing an application for certification as a non-profit health organization-\$2,500;

(19) processing an application for annual recertification as a non-profit health organization-\$500.

§175 2. *Penalties.* The board shall charge the following penalties:

(1) renewal of physician's license expired for 31-90 days [or less]-\$50 [\$400];

(2) renewal of physician's license expired for longer than 90 days but less than one year-\$100 [\$800];

(3)-(6) (No change.)

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511283
Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

Chapter 185. Physician Assistants

• 22 TAC §§185.1-185.29

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

The Texas State Board of Medical Examiners proposes the repeal of §§185.1-185.29, concerning physician assistants. Due to legislative changes made during the 74th Legislature changing the name of the Physician Assistant Advisory Council to the Texas State Board of Physician Assistant Examiners, the creation of rehabilitation orders, as well as other miscellaneous changes, extensive rewrite of the chapter was felt necessary; therefore repeal of the chapter with simultaneous new section is proposed.

Tim Weitz, general counsel, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Weitz also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be clarification of the rules by omission of outdated information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The repeals are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b-1 is affected by these repeals.

§185.1. *Purpose.*

§185.2. *Definitions.*

§185.3. *Meetings.*

§185.4. *Licensure.*

§185.5. *Relicensure.*

§185.6. *Annual Renewal of License.*

5.7. *Temporary License.*

§185.8. *Schedule of Fees.*

§185.9. *Inactive License.*

§185.10. *Reinstatement of License Following Cancellation for Cause.*

§185.11. *Physician Assistant Scope of Practice.*

§185.12. *Tasks Not Permitted to be Delegated to a Physician Assistant.*

§185.13. *Identification Requirements.*

§185.14. *Notification of Intent to Practice.*

§185.15. *Physician Supervision.*

§185.16. *Supervising Physician.*

§185.17. *Employment Guidelines.*

§185.18. *Exceptions.*

§185.19. *Grounds for Denial of Licensure and for Disciplinary Action.*

§185.20. *Discipline of Physician Assistant.*

§185.21. *Disciplinary Entity.*

§185.22. *Complaint Procedure Notification.*

§185.23. *Investigations.*

§185.24. *Procedure-General.*

§185.25. *Procedure-Prehearing.*

§185.26. *Procedure-Hearing.*

§185.27. *Procedure-Posthearing.*

§185.28. *Medical Board Review and Approval.*

§185.29. *Construction.*

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

Issued in Austin, Texas, on September 6, 1995.

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Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
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For further information, please call: (512) 834-7728

The Texas State Board of Medical Examiners proposes new §§185. 1-185.29, concerning physician assistants. Due to legislative changes made during the 74th Legislature changing the name of the Physician Assistant Advisory Council to the Texas State Board of Physician Assistant Examiners, the creation of rehabilitation orders, as well as other miscellaneous changes, extensive rewrite of the chapter was felt necessary; therefore this new chapter is proposed with simultaneous repeal of the existing rule.

Tim Weitz, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Weitz also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to strengthen the investigative and disciplinary process, and to convey the message that the Board of Physician Assistant Examiners is not merely an advisory board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new sections are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

Article 4495b-1 is affected by these new sections.

§185.1. Purpose. The purpose of these rules is to create a system of licensing and regulating physician assistants as a means to ensure the competency of physician assistants without a financial burden to the people of Texas. Furthermore, the purpose of these rules and regulations is to also encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified physician assistants. These sections are not intended to, and shall not be construed to, restrict the physician from delegating technical and clinical tasks to technicians, other assistants, or employees who perform delegated tasks in the office of a physician and who are not rendering services as a physician assistant or identifying themselves as a physician assistant. Nothing in these rules and regulations shall be construed to relieve the supervising physician of the profes-

sional or legal responsibility for the care and treatment of his or her patients.

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

Alternate physician—That physician designated by the supervising physician to act in his or her stead.

Board—The Texas State Board of Physician Assistant Examiners.

Medical Board—The Texas State Board of Medical Examiners.

Physician assistant—A graduate of a physician assistant or surgeon assistant training program accredited by the American Medical Association's Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on the Certification of Physician Assistants, and who is licensed as a physician assistant by the board.

State—Any state, territory, or insular possession of the United States and the District of Columbia.

Supervising physician—A physician licensed by the medical board either as a doctor of medicine or doctor of osteopathic medicine who is assuming responsibility and legal liability for the services rendered by the physician assistant, and who has received approval from the medical board to supervise a specific physician assistant.

Supervision—Overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. Supervision does not require the constant physical presence of the supervising physician but includes a situation where a supervising physician and the person being supervised are, or can easily be, in contact with one another by radio, telephone, or another telecommunication device.

§185.3. Meetings.

(a) The board shall meet at least four times a year to carry out the mandates of the Physician Assistant Licensing Act.

(b) Special meetings may be called by the presiding officer of the board, by resolution of the board, or upon written request to the presiding officer of the board signed by at least three members of the board.

(c) Board and committee meetings shall, to the extent possible, be conducted pursuant to the provisions of Robert's Rules of Order Newly Revised unless, by rule, the board adopts a different procedure.

(d) All elections and any other issues requiring a vote of the board shall be decided by a simple majority of the members present. A quorum for transaction of

any business by the board shall be one more than half the board's membership at the time of the meeting. If more than two candidates contest an election or if no candidate receives a majority of the votes cast on the first ballot, a second ballot shall be conducted between the two candidates receiving the highest number of votes.

(e) The board, at a regular meeting or special meeting, may elect from its membership a presiding officer and a secretary for one year.

(f) The board, at a regular meeting or special meeting, upon majority vote of the members present, may remove the presiding officer or the secretary from office.

(g) The following are standing and permanent committees of the board. The responsibilities and authority of these committees shall include those duties and powers as defined in paragraphs (1)-(3) of this subsection and such other responsibilities and authority which the board may from time to time delegate to these committees.

(1) Licensure Committee.

(A) Draft and review proposed rules regarding licensure, and make recommendations to the board regarding changes or implementation of such rules.

(B) Draft and review proposed rules pertaining to the overall licensure process, and make recommendations to the board regarding changes or implementation of such rules.

(C) Receive and review applications for licensure in the event the eligibility for licensure of an applicant is in question.

(D) Present the results of reviews of applications for licensure, and make recommendations to the board regarding licensure of applicants whose eligibility is in question.

(E) Make recommendations to the board regarding matters brought to the attention of the Licensure Committee.

(2) Disciplinary and Ethics Committee.

(A) Draft and review proposed rules regarding the discipline of physician assistants and enforcement of the Physician Assistant Licensing Act, §18 and §19.

(B) Oversee the disciplinary process and give guidance to the board and staff regarding methods to improve the dis-

ciplinary process and more effectively enforce the Physician Assistant Licensing Act, §18 and §19.

(C) Monitor the effectiveness, appropriateness, and timeliness of the disciplinary process.

(D) Make recommendations regarding resolution and disposition of specific cases and approve, adopt, modify, or reject recommendations from staff or representatives of the board regarding actions to be taken on pending cases. Approve dismissals of complaints and closure of investigations.

(E) Draft and review proposed ethics guidelines and rules for the practice of physician assistants, and make recommendations to the board regarding the adoption of such ethics guidelines and rules.

(F) Make recommendations to the board and staff regarding policies, priorities, budget, and any other matters related to the disciplinary process and enforcement of the Physician Assistant Licensing Act, §18 and §19.

(G) Make recommendations to the board regarding matters brought to the attention of the Disciplinary Committee.

(3) Long Range Planning Committee.

(A) Formulate and make recommendations to the board concerning future board goals and objectives and the establishment of priorities and methods for their accomplishment.

(B) Study and make recommendations to the board regarding the role and responsibility of the board officers and committees.

(C) Study and make recommendations to the board regarding ways to improve the efficiency and effectiveness of the administration of the board.

(D) Study and make recommendations to the board regarding board rules or any area of a board function that, in the judgment of the committee needs consideration.

(E) Study and make recommendations to the board regarding legislative changes pertinent to the practice of Physician Assistants.

(F) Study and make recommendations to the board regarding financial issues.

(h) Meetings of the board and of its committees are open to the public unless such meetings are conducted in executive session pursuant to the Open Meetings Act, the Physician Assistant Licensing Act, or the Medical Practice Act. In order that board meetings may be conducted safely, efficiently, and with decorum, members of the public shall refrain at all times from smoking or using tobacco products, eating, or reading newspapers and magazines. Members of the public may not engage in disruptive activity that interferes with board proceedings, including excessive movement within the meeting room, noise or loud talking, and resting of feet on tables and chairs. The public shall remain within those areas designated as open to the public. Members of the public shall not address or question board members during meetings unless recognized by the board's presiding officer pursuant to a published agenda item.

(i) Journalists have the same right of access as other members of the public to board meetings conducted in open session, and are also subject to the rules of conduct described in subsection (h) of this section. Observers of any board meeting may make audio or visual recordings of such proceedings conducted in open session subject to the following limitations: the board's presiding officer may request periodically that camera operators extinguish their artificial lights to allow excessive heat to dissipate; camera operators may not assemble or disassemble their equipment while the board is in session and conducting business; persons seeking to position microphones for recording board proceedings may not disrupt the meeting or disturb participants; journalists may conduct interviews in the reception area of the medical board's offices or, at the discretion of the board's presiding officer, in the meeting room after recess or adjournment; no interview may be conducted in the hallways of the medical board's offices; and the board's presiding officer may exclude from a meeting any person who, after being duly warned, persists in conduct described in this subsection and subsection (h) of this section.

(j) The secretary of the board shall assume the duties of the presiding officer in the event of the presiding officer's absence or incapacity.

(k) In the event of the absence or temporary incapacity of the presiding officer, and the secretary, the members of the board may elect another member to act as the presiding officer of a board meeting or may elect an interim acting presiding officer for the duration of the absences or incapacity.

(l) Upon the death, resignation, removal or permanent incapacity of the presiding officer or the secretary, the board shall elect from its membership an officer to fill the vacant position. Such an election shall be conducted as soon as practicable at a regular or special meeting of the board.

§185.4. Licensure.

(a) Except as otherwise provided in this section, an individual shall be licensed by the board before the individual may function as a physician assistant. A license shall be granted to an applicant who:

(1) submits an application on forms approved by the board;

(2) pays the appropriate application fee as prescribed by the board;

(3) has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Commission on Accreditation of Allied Health Education Programs, or by that committee's predecessor or successor entities, and has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(4) certifies that the applicant is mentally and physically able to function safely as a physician assistant;

(5) does not have a license, certification, or registration as a physician assistant in this state or from any other licensing authority that is currently revoked or on suspension or the applicant is not subject to probation or other disciplinary action for cause resulting from the applicant's acts as a physician assistant, unless the board takes that fact into consideration in determining whether to issue the license;

(6) is of good moral character;

(7) submits to the board any other information the board considers necessary to evaluate the applicant's qualifications; and

(8) meets any other requirement established by rules adopted by the board.

(b) The following documentation shall be submitted as a part of the licensure process:

(1) Name Change. Any applicant who submits documentation showing a name other than the name under which the applicant has applied must present copies of marriage licenses, divorce decrees, or court orders stating the name change. In cases where the applicant's name has been changed by naturalization the applicant should send the original naturalization certificate by certified mail to the board for inspection.

(2) Certification. Each applicant for licensure must submit:

(A) a certificate from the National Commission on Certification of Physician Assistants ("NCCPA") directly from NCCPA on a form provided by the board; and

(B) a certificate of successful completion of an educational program submitted directly from the program on a form provided by the board.

(3) Fingerprint Card. Each applicant must complete and submit a fingerprint card. This fingerprint card must be completed through an agency trained in taking fingerprints.

(4) Verification from other states. Each applicant for licensure who is licensed, registered, or certified in another state must have that state submit directly to the board, on a form provided by the board, that the physician assistant's license, registration, or certification is current and in full force and that the license, registration, or certification has not been restricted, canceled, suspended, or revoked. The other state shall also include a description of any sanctions imposed by or disciplinary matters pending in the state.

(5) State License Registration. Each applicant, if licensed, registered, or certified in another state as a physician assistant, must submit a copy of the license registration certificate to the board. The license, registration, or certificate number and the date of expiration must be visible on the copy.

(6) Arrest Records. If an applicant has ever been arrested, a copy of the arrest and arrest disposition needs to be requested from the arresting authority and that authority must submit copies directly to the board.

(7) Malpractice. If an applicant has ever been named in a malpractice claim filed with any liability carrier or if an applicant has ever been named in a malpractice suit, the applicant must:

(A) have each liability carrier complete a form furnished by this board regarding each claim filed against the applicant's insurance;

(B) for each claim that becomes a malpractice suit, have the attorney representing the applicant in each suit submit a letter directly to the board explaining the allegation, dates of the allegation, and current status of the suit. If the suit has been closed, the attorney must state the disposition of the suit, and if any money was paid,

the amount of the settlement. If such letter is not available, the applicant will be required to furnish a notarized affidavit explaining why this letter cannot be provided; and

(C) provide a statement, composed by the applicant, explaining the circumstances pertaining to patient care in defense of the allegations.

(8) Additional Documentation. Additional documentation as is deemed necessary to facilitate the investigation of any application for licensure must be submitted.

§185.5. Relicensure. If a physician assistant's license has been expired for one year, it is considered to have been canceled, and the physician assistant may not renew the license. The physician assistant may obtain a new license by complying with the requirements and procedures for obtaining an original license.

§185.6. Annual Renewal of License.

(a) Physician Assistants licensed under the Physician Assistant Licensing Act shall register annually and pay a fee. A physician assistant may, on notification from the board, renew an unexpired license by submitting the required form and documents and by paying the required renewal fee to the board on or before the expiration date of the permit. The fee shall accompany the required form which legibly sets forth the licensee's name, mailing address, business address, and other necessary information prescribed by the board.

(b) The following documentation shall be submitted as part of the renewal process:

(1) Continuing Medical Education. As a prerequisite to the annual registration of a physician assistant's license, 40 hours of continuing medical education (CME) are required to be completed in the following categories:

(A) at least one-half of the hours are to be from formal courses that are designated for Category I credit by a CME sponsor approved by the American Academy of Physician Assistants.

(B) The remaining hours may be from Category II composed of informal self-study, attendance at hospital lectures, grand rounds, or case conferences and shall be recorded in a manner that can be easily transmitted to the board upon request.

(2) A physician assistant must report on the annual registration form the number of hours and type of continuing medical education completed during the previous year.

(3) A physician assistant may request in writing an exemption for the following reasons:

(A) catastrophic illness,

(B) military service of longer than one year's duration outside the United States;

(C) medical practice and residence of longer than one year's duration outside the United States; or

(D) good cause shown on written application of the licensee that gives satisfactory evidence to the board that the licensee is unable to comply with the requirement for continuing medical education.

(4) Exemptions are subject to the approval of the licensure committee of the board

(5) A temporary exception under paragraph (3) of this subsection may not exceed one year but may be renewed annually, subject to the approval of the board.

(6) This section does not prevent the board from taking disciplinary action with respect to a licensee or an applicant for a license by requiring additional hours of continuing medical education or of specific course subjects.

(7) The board may require written verification of both formal and informal credits from any licensee within 30 days of request. Failure to provide such verification may result in disciplinary action by the board.

(c) Falsification of an affidavit or submission of false information to obtain renewal of a license shall subject a physician assistant to denial of the renewal and/or to discipline pursuant to the Physician Assistant Licensing Act, §19.

(d) If the renewal fee and completed application form are not received on or before the expiration date of the permit, the following penalties will be imposed:

(1) one to 90 days late-\$50.00 plus the required annual registration fee;

(2) 91 days to one year late-\$100.00 plus the required annual registration fee;

(3) over one year late-license will automatically be canceled.

(e) The board shall not waive fees or penalties.

(f) The board shall stagger annual registration of physician assistants proportionally on a periodic basis.

§185.7. Temporary License.

(a) The board may issue a temporary license to an applicant who:

(1) meets all the qualifications for a license under the Physician Assistant Licensing Act but is waiting for the next scheduled meeting of the board for the license to be issued; or

(2) seeks to temporarily substitute for a licensed physician assistant during the licensee's absence, if the applicant:

(A) is licensed or registered in good standing in another state, territory, or the District of Columbia;

(B) submits an application on a form prescribed by the board; and

(C) pays the appropriate fee prescribed by the board.

(3) has graduated from an educational program for physician assistants or surgeon assistants accredited by the Commission on Accreditation of Allied Health Education Programs or by the committee's predecessor or successor entities no later than six months previous to the application for temporary licensure and is waiting for examination results from the National Commission on Certification of Physician Assistants.

(b) A temporary license is valid for 100 days from the date issued and may be extended only for another 30 days after the date the initial temporary license expires. A total of two additional temporary licenses may be issued at the discretion of the executive director.

§185.8. Schedule of Fees.

(a) The board shall charge the following non-refundable, non-transferable fees:

(1) Processing licensure application—\$200.

(2) Temporary License—\$50.

(3) Annual License Renewal—\$150.

(4) Duplicate license—\$45.

(5) Reinstatement following cancellation for cause—\$200.

(b) All licensure fees or penalties must be submitted in the form of a money order or cashier's check payable on or through a United States bank. Fees and penalties are not refundable. If a single payment is made for more than one individual permit, it must be made for the same class of permit, and a detailed listing on a

form prescribed by the board must be included with each payment.

§185.9. Inactive License.

(a) A license holder may have the license holder's license placed on inactive status by applying to the board. A physician assistant with an inactive license is excused from paying renewal fees on the license and may not practice as a physician assistant.

(b) A license holder who practices as a physician assistant while on inactive status is considered to be practicing without a license.

(c) A physician assistant may return to active status by applying to the board, paying the license renewal fee, and complying with the requirements for license renewal under the Physician Assistant Licensing Act, §10.

§185.10. Reinstatement of License Following Cancellation for Cause.

(a) The applicant must complete in every detail the application for reinstatement of license after cancellation for cause, including payment of the required application fee.

(b) The applicant must appear before the board to state the reasons for the request for reinstatement of license.

(c) Application for reinstatement following cancellation for cause cannot be considered more often than annually.

(d) Reinstatement of a license following cancellation for cause shall be at the discretion of the board upon a showing by the applicant that reinstatement is in the best interest of the public.

§185.11. Physician Assistant Scope of Practice. The physician assistant shall provide, within the education, training, and experience of the physician assistant, medical services that are delegated by the supervising physician. The activities listed in paragraphs (1)-(9) of this subsection may be performed in any place authorized by a supervising physician, including, but not limited to a clinic, hospital, ambulatory surgical center, patient home, nursing home, or other institutional setting. Medical services provided by a physician assistant may include, but are not limited to:

(1) obtaining patient histories and performing physical examinations;

(2) ordering and/or performing diagnostic and therapeutic procedures;

(3) formulating a working diagnosis;

(4) developing and implementing a treatment plan;

(5) monitoring the effectiveness of therapeutic interventions;

(6) assisting at surgery;

(7) offering counseling and education to meet patient needs;

(8) requesting, receiving, and signing for the receipt of pharmaceutical sample prescription medications and distributing the samples to patients in a specific practice setting where the physician assistant is authorized to prescribe pharmaceutical medications and sign prescription drug orders at a site, as provided by the Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.06(d)(5) and (6), and its subsequent amendments, or as otherwise authorized by this Act or board rule;

(9) the signing or completion of a prescription as provided by the Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.06(d)(5) and (6); and

(10) making appropriate referrals.

§185.12. Tasks Not Permitted to be Delegated to a Physician Assistant. Except at sites designated by the Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.06(d)(5) and (6), the supervising physician shall not allow a physician assistant to prescribe or supply medication.

§185.13. Identification Requirements. A physician assistant licensed by the board shall keep the physician assistant's Texas license available for inspection at the physician assistant's primary place of business and shall, when engaged in professional activities, wear a name tag identifying the physician assistant as a physician assistant.

§185.14. Notification of Intent to Practice.

(a) A physician assistant licensed under the Physician Assistant Licensing Act must, before beginning practice, submit on a form prescribed by the board notification of the license holder's intent to begin practice. Notification under this section must include:

(1) the name, business address, Texas license number, and telephone number of the physician assistant;

(2) the name, business address, Texas license number, and telephone number of the supervising physician;

(b) A physician assistant must notify the board of any changes in, or additions to, the person acting as a supervising physician for the physician assistant not later than the 30th day after the date the change or addition is made.

§185.15. Physician Supervision.

(a) Supervision shall be continuous, but shall not be construed as necessarily requiring the constant physical presence of the supervising physician at a place where physician assistant services are performed while the services are performed. Telecommunication shall always be available.

(b) It is the obligation of each team of physician(s) and physician assistant(s) to ensure that:

(1) the physician assistant's scope of function is identified;

(2) delegation of medical tasks is appropriate to the physician assistant's level of competence;

(3) the relationship between the members of the team is defined; that the relationship of, and access to, the supervising physician is defined;

(4) and a process for evaluation of the physician assistant's performance is established.

(c) A physician assistant may have more than one supervising physician.

(d) Physician assistants must utilize mechanisms which provide medical authority when such mechanisms are indicated, including, but not limited to, standing delegation orders, standing medical orders, protocols, or practice guidelines.

§185.16. Supervising Physician. To be authorized to supervise a physician assistant, a physician must:

(1) be currently licensed as a physician in this state by the medical board. The license must be unrestricted and active;

(2) notify the board of the physician's intent to supervise a physician assistant; and

(3) submit a statement to the board that the physician will:

(A) supervise the physician assistant according to rules adopted by the board; and

(B) retain professional and legal responsibility for the care rendered by the physician assistant; and

(4) submit the name, Texas license number, and signature of any alternate supervising physician(s).

(A) A physician assistant may be supervised by an alternate supervising physician in the absence of the supervising physician consistent with this chapter, Texas Medical Practice Act, Physician Assistant Licensing Act, board rules, medical

board rules, and any standing orders or protocols established in accordance with these statutes and rules.

(B) Any alternate supervising physician engaged in the supervision of a physician assistant shall be approved by and registered with the board on a form provided by the board.

(C) The board shall require any alternate supervising physician to provide the board with the same information as required of supervising physicians and such alternate supervising physician engaged in the supervision of a physician assistant shall comply with all laws, regulations, statutes, and rules governing the supervision of physician assistants during any period of supervision.

§185.17. Employment Guidelines.

(a) Except as otherwise provided in this section, the equivalent of three full-time physician assistant positions shall be allowed for each supervising physician. A supervising physician may utilize more than three physician assistants to allow part-time employment or the employment of a substitute during the temporary absence of a supervising physician's primary physician assistant.

(b) The physician assistant may not independently bill patients for their services except where provided by law.

(c) Except at a site serving medically underserved populations, a physician assistant shall not be maintained in an office practice setting separate from that of his or her supervising physician.

§185.18. Exceptions. Upon written application to the board with the approval of the medical board, the board may grant exceptions to its rules if such exceptions are compelling and in the best interest of the public.

§185.19. Grounds for Denial of Licensure and for Disciplinary Action. The board may refuse to issue a license to any person and may, following notice of hearing and a hearing as provided for in the Administrative Procedure Act, take disciplinary action against any physician assistant who:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fraudulently or deceptively uses a license;

(3) violates any provision of these rules or of the Physician Assistant Licensing Act;

(4) is convicted of a felony;

(5) is a habitual user of intoxicants or nontherapeutic drugs to the extent that the person cannot safely perform as a physician assistant;

(6) has been adjudicated as mentally incompetent or has a mental or physical condition that renders the person unable to safely perform as a physician assistant;

(7) has committed an act of moral turpitude. An act involving moral turpitude shall be defined as an act involving baseness, vileness, or depravity in the private and social duties one owes to others or to society in general, or an act committed with knowing disregard for justice, honesty, principles, or good morals;

(8) represents that the person is a physician;

(9) has acted in an unprofessional or dishonorable manner which is likely to deceive, defraud, or injure any member of the public;

(10) has failed to practice as a physician assistant in an acceptable manner consistent with public health and welfare;

(11) has committed any act that is in violation of the laws of the State of Texas if the act is connected with practice as a physician assistant; a complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this provision; proof of the commission of the act while in practice as a physician assistant or under the guise of practice as a physician assistant is sufficient for action by the board under this section; or

(12) has had the person's license suspended, revoked, or restricted or who has had other disciplinary action taken by another state regarding practice as a physician assistant or had disciplinary action taken by the uniformed services of the United States, based on acts by the licensee similar to acts described in this section; a certified copy of the record of the state or uniformed services of the United States taking the action is conclusive evidence of it.

§185.20. Discipline of Physician Assistants. The board, upon finding a physician assistant has committed any offense described in §185.19 of this title (relating to Grounds for Denial of Licensure and for Disciplinary Action), may:

(1) refuse to license the physician assistant;

(2) order a public or private reprimand;

(3) order revocation, suspension, limitation, or other restrictions of a physician assistant's license;

(4) require a physician assistant to submit to care, counseling, or treatment

by a health care practitioner designated by the board;

(5) stay enforcement of its order and place the physician assistant on probation with the board retaining the right to vacate the probationary stay and enforce the original order for noncompliance with the terms of probation or impose any other remedial measures or sanctions authorized by this section;

(6) restore or reissue, at its discretion, a license or remove any disciplinary or corrective measure that the board may have imposed;

(7) order the physician assistant to perform public service as a part of any disciplinary order; or

(8) require the physician assistant to complete additional training.

§185.21. Disciplinary Entity. Hearings on alleged statutory or rules violations by a physician assistant and discipline of a physician assistant shall be conducted by the board in accordance with the rules for such hearings following review of the allegations against the physician assistant by representatives of the board and recommendation of such representatives that a hearing be conducted with regard to such allegations.

§185.22 Complaint Procedure Notification.

(a) *Methods of Notification.* Pursuant to the Medical Practice Act, §2.09(s)(2), for the purpose of directing complaints to the Texas State Board of Medical Examiners, the board and its licensees shall provide notification to the public of the name, mailing address, and telephone number for filing complaints by one or more of the following methods:

(1) displaying in a prominent location at their place or places of business, signs in English and Spanish of no less than 8 and 1/2 inches by 11 inches in size with the council-approved notification statement printed alone and in its entirety in black on a white background in type no smaller than standard 24-point Times Roman print with no alterations, deletions, or additions to the language of the board-approved statement; or

(2) placing the board-approved notification statement printed in English and Spanish in black type no smaller than standard 10-point, 12-pitch typewriter print on each bill for services with no alterations, deletions, or additions to the language of the board-approved statement; or

(3) placing the board-approved notification statement printed in English and Spanish in black type no smaller than standard 10-point, 12-pitch typewriter print on each registration form, application, or writ-

ten contract for services with no alterations, deletions, or additions to the language of the board-approved statement.

(b) *Approved English Notification Statement.* The following notification statement in English is approved by the board for purposes of these rules and the Medical Practice Act, §2.09(s)(2) and is a sample of the type print referenced in subsection (a) of this section.

Figure 1: 22 TAC §185.22(b)

(c) *Approved Spanish Notification Statement.* The following notification statement in Spanish is approved by the board for purposes of these rules and the Medical Practice Act, §2.09(s)(2), and is a sample of the type print referenced in subsection (a) of this section.

Figure 2: 22 TAC §185.22(c)

§185.23. Investigations.

(a) *Confidentiality.* All complaints, adverse reports, investigation files, other investigation reports, and other investigative information in the possession of, or received, or gathered by the board or its employees or agents relating to a licensee, an application for license, or a criminal investigation or proceeding are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in licensee discipline. Investigative information in the possession of the board or its employees or agents which relates to licensee discipline and information contained in such files may not be disclosed except in the following circumstances:

(1) to the appropriate licensing or regulatory authorities in other states or the District of Columbia or a territory or country where the physician assistant is licensed, registered, or certified or has applied for a license or to a peer review committee reviewing an application for privileges or the qualifications of the licensee with respect to retaining privileges;

(2) to appropriate law enforcement agencies if the investigative information indicates a crime may have been committed and the board shall cooperate with and assist all law enforcement agencies conducting criminal investigations of licensees by providing information relevant to the criminal investigation to the investigating agency and any information disclosed by the board to an investigative agency shall remain confidential and shall not be disclosed by the investigating agency except as necessary to further the investigation;

(3) to a health-care entity upon receipt of written request. Disclosures by the board to a health-care entity shall include only information about a complaint

filed against a physician assistant that was resolved after investigation by a disciplinary order of the board or by an agreed settlement, and the basis and current status of any complaint under active investigation; and

(4) to other persons if required during the investigation.

(b) *Renewal of licenses.* A licensee shall furnish a written explanation of his or her answer to any question asked on the application for license renewal, if requested by the board. This explanation shall include all details as the board may request and shall be furnished within 14 days of the date of the board's request.

(c) *Impaired Physician Assistants.*

(1) The board may require a licensee to submit to a mental and/or physical examination by a physician or physicians designated by the board if the board has probable cause to believe that the licensee is impaired. Impairment is present if one appears to be unable to practice with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material; or as a result of any mental or physical condition.

(2) Probable cause may include, but is not limited to, any one of the following:

(A) sworn statements from two people, willing to testify before the board, medical board, or the State Office of Administrative Hearings that a certain licensee is impaired;

(B) a sworn statement from an official representative of the Texas Academy of Physician Assistants stating that the representative is willing to testify before the board that a certain licensee is impaired;

(C) evidence that a licensee left a treatment program for alcohol or chemical dependency before completion of that program;

(D) evidence that a licensee is guilty of intemperate use of drugs or alcohol;

(E) evidence of repeated arrests of a licensee for intoxication;

(F) evidence of recurring temporary commitments of a licensee to a mental institution; or

(G) medical records indicating that a licensee has an illness or condition which results in the inability to function properly in his or her practice.

(3) Rehabilitation Order.

(A) The board, through an agreed order or after a contested proceeding, may impose a nondisciplinary rehabilitation order on any licensee or, as a prerequisite for issuing a license, on any licensure applicant based on one or more of the following:

(i) intemperate use of drugs or alcohol directly resulting from habituation or addiction caused by medical care or treatment provided by a physician;

(ii) self-reported intemperate use of drugs or alcohol during the last five years immediately preceding the report which could adversely affect the reporter's ability to safely practice as a physician assistant, but only if the reporting individual has not previously been the subject of a substance abuse related order of the board;

(iii) judgment by a court of competent jurisdiction that the individual is of unsound mind; or

(iv) results from a mental or physical examination, or admissions by the individual, indicating that the licensee or applicant suffers from a potentially dangerous limitation or an inability to safely practice as a physician assistant with reasonable skill and safely practice as a physician assistant with reasonable skill and safety by reason of illness or as a result of any physical or mental condition.

(B) A rehabilitation order entered pursuant to this section shall be a nondisciplinary private order and shall contain findings of fact and conclusions of law. A rehabilitation order, if entered by agreement, shall be an agreed disposition or settlement agreement for purposes of civil litigation and shall be exempt from the open records law, Chapter 552, Government Code

(C) A rehabilitation order entered pursuant to this section may impose a revocation, cancellation, suspension, period of probation or restriction, or any other terms and conditions authorized under this Act or as otherwise agreed to by the board and the individual subject to the order.

(D) Violation of a rehabilitation order entered pursuant to this section may result in disciplinary action under the provisions of this Act for contested matters or pursuant to the terms of the agreed order.

A violation of a rehabilitation order maybe grounds for disciplinary action based on unprofessional or dishonorable conduct or on any of the provisions of this Act which may apply to the misconduct which resulted in violation of the rehabilitation order.

(E) The rehabilitation orders entered pursuant to this section shall be kept in a confidential file which shall be subject to an independent audit by state auditors or private auditors contracted with by the board to perform such an audit. Audits may be performed at any time at the direction of the board but shall be performed at least once every three years. The audit results shall be reported in a manner that maintains the confidentiality of all licensees who are subject to rehabilitation orders and shall be a public record. The audit shall be for the purposes of ensuring that only qualified licensees are subject to rehabilitation orders.

(d) Investigation of Professional Review Actions. A written report of a professional review action taken by a peer review committee or a health-care entity provided to the board must contain the results and circumstances of the professional review action. Such results and circumstances shall include:

(1) the specific basis for the professional review action, whether or not such action was directly related to the care of individual patients; and

(2) the specific limitations imposed upon the physician assistant's clinical privileges, upon membership in the professional society or association, and the duration of such limitations.

(e) Other Reports.

(1) Relevant information shall be reported to the board indicating that a physician assistant's practice poses a continuing threat to the public welfare and shall include a narrative statement describing the time, date, and place of the acts or omissions on which the report is based.

(2) A report that a physician assistant's practice constitutes a continuing threat to the public welfare shall be made to the board as soon as possible after the peer review committee or the physician involved reaches that conclusion and is able to assemble the relevant information.

(f) Reporting Professional Liability Claims.

(1) Reporting responsibilities. The reporting form must be completed and forwarded to the board for each defendant physician assistant against whom a professional liability claim or complaint has been filed. The information is to be reported by insurers or other entities providing professional liability insurance for a physician

assistant. If a nonadmitted insurance carrier does not report or if the physician assistant has no insurance carrier, reporting shall be the responsibility of the physician assistant.

(2) Separate reports required and identifying information. One separate report shall be filed for each defendant physician assistant insured. When Part II is filed, it shall be accompanied by the completed Part I or other identifying information as described in paragraph (4) (A) of this subsection.

(3) Timeframes and attachments. The information in Part I of the form must be provided within 30 days of receipt of the claim or suit. A copy of the claim letter or petition must be attached. The information in Part II must be reported within 105 days after disposition of the claim. Disposed claims shall be defined as those claims where a court order has been entered, a settlement agreement has been reached, or the complaint has been dropped or dismissed.

(4) Alternate reporting formats. The information may be reported either on the form provided or in any other legible format which contains at least the requested data.

(A) If the reporter elects to use a reporting format other than the board's form for data required in Part II, there must be enough identification data available to staff to match the closure report to the original file. The data required to accomplish this include:

- (i) name and license number of defendant physician assistant(s); and
- (ii) name of plaintiff.

(B) A court order or a copy of the settlement agreement is an acceptable alternative submission for Part II. An order or settlement agreement should contain the necessary information to match the closure information to the original file. If the order or agreement is lacking some of the required data, the additional information may be legibly written on the order or agreement.

(5) Penalty. Failure by a licensed insurer to report under this section shall be referred to the State Board of Insurance.

(6) Definition. For the purposes of this subsection a professional liability claim or complaint shall be defined as a cause of action against a physician assistant for treatment, lack of treatment, or other claimed departure from accepted standards of health care or safety which proximately results in injury to or death of the patient, whether the patient's claim or cause of action sounds in tort or contract.

(7) Claims not required to be reported. Examples of claims that are not required to be reported under this chapter but which may be reported include, but are not limited to, the following:

(A) product liability claims (i.e. where a physician assistant invented a device which may have injured a patient but the physician assistant has had no personal physician assistant-patient relationship with the specific patient claiming injury by the device);

(B) antitrust allegations;

(C) allegations involving improper peer review activities;

(D) civil rights violations; or

(8) Voluntary Reporting. Claims that are not required to be reported under this chapter may, however, be voluntarily reported.

(9) Reporting Form. The reporting form shall be as follows:
22 TAC §185.23(f)(9)

(10) Professional Liability Suits and Claims. Following receipt of a notice of claim letter or a complaint filed in court against a licensee that is reported to the board, the licensee shall furnish to the board the following information within 14 days of the date of receipt of the board's request for said information:

(A) a completed questionnaire to provide summary information concerning the suit or claim;

(B) a completed questionnaire to provide information deemed necessary in assessing the licensee's competency;

(C) information on the status of any suit or claim previously reported to either the board or the medical board.

(g) Complaints. The board shall keep information on file about each complaint filed with the board, consistent with the Act. If a written complaint is filed with the board that the board has the authority to resolve relating to a person licensed by the board, the board, at least as frequently as quarterly and until final determination of the action to be taken relative to the complaint, shall notify in a manner consistent with the Act, the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

(h) Patient identity. In any disciplinary investigation or proceeding regard-

ing a physician assistant conducted under or pursuant to the Act, the board shall protect the identity of any patient whose medical records are examined and utilized in a public proceeding except for those patients who testify in the public proceeding or who submit a written release in regard to their records or identity.

(i) Immunity. A person, health care entity, medical peer review committee, or other entity that without malice furnishes records, information, or assistance to the board is immune from any civil liability arising from such act.

§185.24. Procedure-General.

(a) Applicability. These rules shall govern the procedures for the institution, conduct, and determination of all causes and proceedings before the board. The purpose of these sections is to provide for a simple and efficient system of procedure before the board; to ensure uniform standards of practice and procedure, public participation, and notice of board actions; and a fair and expeditious determination of causes.

(b) Construction. These rules shall not be construed so as to enlarge, diminish, modify or alter the jurisdiction, powers, or authority of the board or the substantive rights of any party. They shall be liberally construed with a view towards the purpose for which they were adopted.

(c) Computation of Time.

(1) Computing time. In computing any period of time prescribed or allowed by these sections, Order of the board, or any applicable statute, the period shall begin on the day after the act, event, or default in controversy and end on the last day of such computed period, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, nor a legal holiday.

(2) Extensions. Unless otherwise provided by statute, the time for filing any document may be extended by agreement of the parties or order of the secretary, hearings examiner, or administrative law judge upon written verified motion duly filed prior to the expiration of the applicable time period, showing good cause for an extension of time and stating that the need there for is not caused by the neglect, indifference, or lack of diligence of the movant. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

(d) Agreement to be in Writing. No stipulation or agreement between the parties, their attorneys, or representatives with regard to any matter involved in any

proceeding before the board shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated in an Order bearing their written approval. This section does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these sections, unless precluded by law.

(e) Expiration of Licenses. When a licensee has made timely and sufficient application for the renewal of a license or a new license for any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, or unless it has been terminated according to statute and rule, and in case the application is denied or the terms of the new license limited, until the last day for seeking review of the board order or a later date fixed by order of the reviewing court.

(f) Pleadings.

(1) Form. Pleadings shall be typewritten or printed upon paper 8 inches wide and 11 inches long with left and right margins at least one inch wide. Exhibits annexed thereto shall be folded to the same size and conform to subsection (f) of §185.26 of this title (relating to Procedure-Hearing). Reproductions are acceptable, provided all copies are clear and permanently legible.

(2) Content. Pleadings shall state their purpose, contain a concise statement of the facts in support thereof, and state a prayer for the desired relief.

(3) Signature and address. The original of every pleading shall be signed in ink by the party filing the paper, his or her attorney, or by his or her authorized representative. Pleadings shall contain the name, address, and telephone number of the party filing the document or the name, telephone number, and business address of the representative.

(4) Certificate of service. A certificate of service by the party, attorney, or representative who files a pleading, stating that it has been served on the other parties, shall be prima facie evidence of such service. The following form of certificate will be sufficient in this connection: "I hereby certify that I have this _____ day of _____, 19____, served copies of the foregoing pleading upon all other parties to this proceeding, by (here state the manner of service). Signature." Service of pleadings on and by parties shall be as specified in subsection (k) of this section.

(5) Numbering and Heading. In a contested case the complaint and each pleading shall be numbered with the licens-

ee's license number, centered and underscored six lines down from the top of the first page. In each matter heard before the State Office of Administrative Hearings ("SOAH"), the SOAH docket number shall be centered above the licensee's license number. If a SOAH docket number is not available when the complaint or pleading is filed, a space will be provided for its entry at a later date. Double spaced below the number shall be the heading, as follows: SOAH Docket No. _____ X-OOOIN THE MATTER OF THE)(BEFORE THE TEXAS STATE BOARD OF COMPLAINT AGAINST)(PHYSICIAN ASSISTANT EXAMINERS _____)(RESPONDENT NAME OF PLEADING

(6) Other pleadings. All pleadings for which no official form is prescribed shall contain:

(A) the name of the party seeking to bring about or prevent action by the board;

(B) the names of all other known parties in interest;

(C) a concise statement of the facts relied upon by the pleader;

(D) a prayer stating the type of relief, action, or order desired by the pleader;

(E) any other matter required by statute; and

(F) a certificate of service, if required by subsection (k) of this section.

(7) Amendments. Any pleading may be amended at any time upon motion or the filing of an amended application, complaint, or petition for which notice, if required, shall be issued pursuant to subsection (g) of this section.

(8) Incorporation by reference of agency records. Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the agency. This section shall not relieve any applicant of the necessity of alleging in detail, if required, facts necessary to sustain his or her burden of proof imposed by law.

(9) Classification. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

(10) Docketing. Upon receipt of a complaint, an application, or other pleading which is intended to institute a proceed-

ing before the board, the secretary, executive director of the medical board, designee, or board staff shall docket the same as a pending proceeding and serve notice thereon as specified in subsection (k) of this section.

(11) Filing of documents. All documents relating to any proceeding pending or to be instituted before the board shall be filed with the secretary of the board, the executive director, or Director of Hearings for the medical board. Documents shall be deemed filed only when actually marked with the official stamp of the medical board, accompanied by the filing fee, if any, required by statute or board rules.

(g) Notice of Adjudicative Hearing Proceedings.

(1) Notice. Before revoking or suspending any license or registration, or denying an application for a license or registration, or reprimanding any licensee or registrant, the board shall afford all parties an opportunity for an adjudicative hearing after reasonable notice of not less than ten days.

(2) Content. Such notice of adjudicative hearing shall include:

(A) a statement of time, place, and nature of the hearing;

(B) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(C) a reference to the particular sections of the statutes and rules involved; and

(D) a short and plain statement of the matters asserted.

(3) More definite statement. If the board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, on a timely written application, a more definite and detailed statement must be furnished not less than three days prior to the date set for the hearing; however, the board shall not be required to plead its evidence in its complaint.

(4) Service. The notice of adjudicative hearing shall be served as specified in subsection (k) of this section.

(h) Conduct and Decorum. Each person, party, witness, attorney, or other representative shall comport himself or herself in all proceedings with proper dignity, courtesy, and respect for the board, the medical board, the secretary, the executive director, the examiner, and all other parties.

Disorderly or disruptive conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Texas State Bar.

(i) Classification of Parties. Regardless of errors as to designation of a party, parties shall be accorded their true status in the proceeding.

(j) Parties in Interest. Any party in interest may appear in any proceeding before the board or the medical board. All appearances shall be subject to a motion to strike upon a showing that the party has no justifiable or administratively cognizable interest in the proceeding.

(k) Service in Nonrulemaking Proceedings.

(1) Personal service. Where personal service of notice by the board is required, the board shall serve in person or by mailing the notice of adjudicative hearing, certified or registered mail, return receipt requested, to the last address filed with the board by the person entitled to receive such notice.

(2) Service by publication. Where personal service cannot be made as contemplated in paragraph (1) of this subsection, then service of notice shall be by publication of the notice of adjudicative hearing in a newspaper of general circulation once each week for two consecutive weeks in the county in which the licensee was last known to have practiced; the last publication to be at least ten days prior to the date of the hearing. When the licensee's whereabouts are unknown or his or her last known place of practice is outside the State of Texas, notice by publication is to be made by having published once a week for two consecutive weeks in a newspaper of general circulation published in the county of the last known place of practice in Texas if known, the last publication to be at least ten days prior to the date of the hearing. Return of the service of notice by publication shall be by publisher's affidavit together with a copy of the published notice which shall be introduced into the record at the hearing.

(3) Service of pleadings. A copy of any document filed by any party in any proceeding subsequent to the institution thereof shall be mailed or otherwise delivered to all other parties of record by the filing party. If any party has appeared in the proceeding by attorney or other representative authorized under these sections to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of an order by the presiding officer or hearings examiner striking the document from the record.

(l) Appearances Personally or by Representative. Any party may appear and be represented by an attorney at law authorized to practice law before the highest court of this state. This right may be waived. Any person may appear on his or her own behalf or by a bona fide full-time employee. A corporation, partnership, or association may appear and be represented by any bona fide officer, partner, or full-time employee.

(m) Filing Fees. Each application, petition, or complaint which is intended to institute a proceeding before the board shall be accompanied by the filing fee, if any, prescribed by law and these sections.

(n) Forms. Official forms for use in certain board proceedings are incorporated in the appendix to these sections. The previously-mentioned official forms shall be printed, when appropriate, under the supervision of the secretary or executive director who shall furnish copies thereof to any person upon request.

(o) Ex Parte Consultations. Unless required for the disposition of ex parte matters authorized by law, members or employees of the board assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative except on notice and opportunity for all parties to participate.

§185.25. Procedure-Prehearing.

(a) Discovery. After the initiation and filing of a formal complaint, or upon the filing of the board's initial pleading in any other contested matter, the following discovery rules shall apply.

(1) Preliminary Discovery. Not later than 30 days after receiving a written request from an opposing party, the responding party shall provide to the requesting party the following:

(A) a preliminary list of the names and last known addresses of potential witnesses which the responding party reasonably anticipates may testify in its case-in-chief;

(B) a list or copy of all documents, records, photographs, moving pictures, films, videotapes, audio recordings, and other such material in the possession of the responding party which the responding party intends to offer in its case-in-chief, and a reasonable opportunity to inspect and copy such items;

(C) a list identifying all tangible items in the possession of the responding party which the responding party

intends to offer in its case-in-chief, and a reasonable opportunity to inspect such items; and

(D) a list of the names and last known addresses of any experts the responding party anticipates calling to testify in its case-in-chief.

(2) Experts. Upon written request, a list identifying all of the following documents and tangible items pertaining to the responding party's experts, or copies of such documents and tangible items, shall be provided to the requesting party before the initial deposition of such an expert, or no later than five days prior to the hearing on the case if no deposition of the expert has been taken:

(A) documents and tangible items which have been provided to any expert who is expected to testify in the case;

(B) documents and tangible items which have been made or prepared by any expert used for consultation if such documents and tangible items form the basis, either in whole or in part, of the opinion of an expert who is expected to testify in the case; and

(C) a report from each expert who is anticipated to testify in the case which generally synthesizes the expected testimony of the expert.

(3) Inspection and Copying. Documents and tangible items which are identified in a discovery response, but not provided, shall be made available for inspection and copying at a reasonable time and place upon the written request of an opposing party.

(4) Depositions. The taking and use of depositions shall be governed by the Administrative Procedure Act or by an agreement between the parties either on the record or in a writing signed by the parties or their representatives. Except by an agreement between the parties either on the record or in a writing signed by the parties or their representatives, depositions shall be conducted and completed no later than five days prior to the scheduled hearing date. Failure of a properly noticed witness who is a party to the case to attend a deposition for the purpose of taking the testimony of that party witness, or the failure of such a witness to attend such a deposition as agreed to by the parties on the record or in a writing signed by the parties or their representatives, may result in the imposition of the sanctions and remedies set forth in paragraph (5) of this subsection.

(5) Remedies and Sanctions. A failure to comply with a discovery request

to the extent required by board rule, medical board rule, the Physician Assistant Licensing Act, the Medical Practice Act, or as agreed between the parties in a discovery agreement, may be remedied and sanctioned by ordering any or all of the following:

(A) granting of a continuance;

(B) limitations or restrictions on the admissibility and use of the evidence, to include exclusion of the evidence;

(C) payment by a party of the actual travel, lodging, and court reporter costs, but not attorney fees, incurred by an opposing party as a result of the failure to comply with the discovery requirements under council rule;

(D) imposition of a scheduling order providing for discovery deadlines necessary to remedy the failure to comply with discovery requirements under board rules; and

(E) remedies and sanctions agreed to by the parties in writing or on the record.

(6) Good Cause. Good cause for failure to comply with a discovery request to the extent required by law, board rule, medical board rule, or as agreed between the parties in a discovery agreement, may justify the imposition of less severe remedies or sanctions which might otherwise be imposed. Good cause shall include but is not limited to the following:

(A) lack of knowledge of the existence of the information or material;

(B) lack of access to or control of the information or material; and

(C) an act of God or providence.

(7) Calculation of Deadlines and Time Limits.

(A) For purposes of discovery under board rules, medical board rules, deadlines and time limits shall be based on calendar days; however, when a deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be extended to the next calendar day which is not a Saturday, Sunday, or legal holiday.

(B) Discovery requests promulgated less than seven days prior to the scheduled hearing date shall not require a

response unless agreed to by the parties on the record or in a writing signed by the parties or their representatives; however, other discovery requests promulgated at a time prior to the scheduled hearing date which by their timing allow less than the applicable deadline period for a response, shall not require a response until submitted for approval by motion of the requesting party to the administrative law judge and approved in whole or in part by order of the administrative law judge. Any such approval shall provide for one or more of the following:

- (i) modified response deadlines;
- (ii) a continuance of the hearing date charged to the party requesting discovery; or
- (iii) such reasonable requirements which are necessary to minimize any anticipated burden or inconvenience to the responding party as a result of the lateness of the discovery request.

(8) Discovery Agreements. Discovery requirements governing board proceedings may be modified by agreement of the parties either on the record or in a writing signed by the parties or their representatives.

(9) Ordered Modification of Discovery. Modification of discovery requirements under board rules may be ordered by an administrative law judge pursuant to an agreement of the parties or the discovery provisions under board rules pertaining to remedies and sanctions.

(10) Official Notice. No later than three days prior to the date of the hearing, the parties shall exchange lists specifying all matters which each party will seek to have officially noticed at the hearing.

(11) Final Witness List. No later than five days prior to the date of the hearing, the parties shall exchange final lists identifying the names and last known addresses of the witnesses each party intends to call to testify in its case-in-chief.

(12) Waiver of Privilege/Confidentiality. The provision of any information or material in response to a discovery request which may be the subject of a privilege or confidentiality requirement under the Medical Practice Act or other applicable law shall not constitute a waiver of any such privilege or confidentiality requirement with respect to other such information or material not provided.

(13) Supplementation. Upon receiving new information or material, or upon otherwise determining that an inaccuracy exists in a previous discovery response, each party shall supplement such responses as soon as practicable.

(b) Subpoenas.

(1) Authority. Pursuant to the Physician Assistant Licensing Act, §27, on behalf of the board the executive director or the secretary-treasurer of the medical board may issue subpoenas and subpoenas duces tecum for purposes of investigations or contested proceedings related to alleged misconduct by physician assistants or alleged violations of the Act or other laws related to practice as a physician assistant or to the provision of health care under authority of the Act; for purposes of issuing, suspending, restricting, revoking, or canceling any license, permit, or certification authorized by the Act; and for purposes of denying or granting applications for such license, permits, or certifications.

(2) Request. A party may request at any time during the pendency of a proceeding, including a contested case, that the board, through the medical board, issue a subpoena or subpoena duces tecum upon a showing of good cause; the relevancy, and necessity of the testimony or documents; lack of undue inconvenience, imposition, or harassment of the party required to produce the testimony or documents; and the deposit of sums sufficient to ensure payment of expenses incident to the subpoenas.

(A) The party requesting the subpoena shall be responsible for the payment of any expense incurred in serving the subpoena, as well as reasonable and necessary expenses incurred by the witness who appears in response to the subpoena.

(B) The party requesting a subpoena duces tecum shall describe and recite with great clarity, specificity, and particularity the books, records, or documents to be produced.

(C) Failure to timely comply with a subpoena issued pursuant to the Act shall be grounds for disciplinary action by the board or other licensing or regulatory agencies with jurisdiction over the individual or entity subject to such a subpoena and grounds for denial or an application for a license, permit, or certification.

(3) Ministerial Act. When requested by a party to issue a subpoena or subpoena duces tecum, the board is performing a ministerial act and shall do so in accordance with the law; however, the board shall not be responsible for inadequacies, insufficiencies, or lack of pleading by the requesting parties or the consequences thereof.

(4) Service and Expenses. A subpoena issued at the request of the staff may be served either by a board or medical board investigator or by certified mail, re-

turn receipt requested. The board shall pay reasonable charges for photocopies produced in response to a subpoena requested by the staff, but such charges may not exceed those billed by the board for producing copies of its own records.

(5) Fees and Travel. A witness called at the request of the board shall be paid a fee of \$25 per day and reimbursed for travel in like manner as board staff. An expert witness called at the request of the board shall be paid a fee of \$300 per day and shall be reimbursed for travel in like manner as board members.

(c) Show Compliance Proceeding. Pursuant to the Administrative Procedure Act, §2001.054, the following rules shall apply to show compliance proceedings:

(1) Prior to institution of board proceedings to revoke, suspend, or take disciplinary action relating to a license or to involuntarily modify restrictions on a license, the physician assistant shall be given an opportunity to show compliance with all requirements of law for the retention of an unrestricted license either in writing, or through a personal appearance at an informal meeting with three representatives of the board, at the option of the licensee.

(2) The opportunity to show compliance under this section shall be extended to a licensee in writing by certified mail, return receipt requested, overnight or express mail, or registered mail, to the last mailing address of the licensee or the licensee's attorney on file with the board.

(3) Prior to a show compliance proceeding under this section, the licensee shall be provided with a brief written statement of the nature of the allegations to be addressed at the show compliance proceeding along with a brief written statement of the provisions of the Physician Assistant Licensing Act which may be grounds for disciplinary action. These statements shall be provided to the licensee by certified mail, return receipt requested, overnight or express mail, or registered mail to the last mailing address of the licensee or the licensee's attorney on file with the board. The licensee shall also be provided with written notice of the time, date, and location of the show compliance proceeding and the rules governing the proceeding by certified mail, return receipt requested, overnight or express mail, or registered mail, to the last mailing address of the licensee or the licensee's attorney on file with the board.

(4) A licensee shall be afforded an opportunity to show compliance with the law as provided for under this section; however, a licensee's refusal or failure to take such an opportunity when offered, or when scheduled with proper notice to the licensee, shall not require that an additional show compliance opportunity be made

available. In the discretion of the board's representatives an additional show compliance opportunity may be afforded to a licensee who refused a previous opportunity or failed to attend a scheduled show compliance proceeding

(5) Three members of the board, consisting of a physician assistant, a physician, and a public member shall conduct the show compliance proceeding as the board's representatives. The representative who has seniority on the board shall chair the proceeding.

(6) The show compliance proceeding shall allow:

(A) the board staff to present a synopsis of the allegations and the facts which the staff reasonably believes could be proven by competent evidence at a hearing;

(B) the licensee to reply to the staff's presentation and present facts the licensee reasonably believes could be proven by competent evidence at a hearing;

(C) presentation of evidence by the staff and the licensee which may include medical and office records, x-rays, pictures, film recordings of all kinds, audio and video recordings, diagrams, charts, drawings, and any other illustrative or explanatory materials which in the discretion of the board's representatives are relevant to the proceeding;

(D) representation of the licensee by counsel;

(E) presentation of oral or written statements by the licensee or the licensee's counsel;

(F) presentation of oral or written statements or testimony by witnesses; and,

(G) questioning of witnesses.

(7) The board's representatives shall exclude from the show compliance proceeding all persons except witnesses during their testimony or presentation of statements, the licensee, the licensee's attorney or representative, board members, and board staff.

(8) During the show compliance proceeding, the board's legal counsel or a representative of the Office of the Attorney General shall be present to advise the board's representatives and the board's staff.

(9) Except with the agreement of the licensee, during the deliberations of

the board's representatives at a show compliance proceeding, the board representatives shall exclude the board staff who presented the allegations and facts related to the complaint against the licensee, the licensee, the licensee's attorney or representative, the complainant, any witnesses, and the general public. The board's legal counsel or a representative of the Office of the Attorney General shall be available to assist the representatives in deliberations

(10) After a show compliance proceeding has been held, the board staff and the board's representatives shall be subject to the ex parte provisions of the Administrative Procedure Act with regard to contacts with board members and administrative law judges concerning the case.

(11) To the extent possible, board members are required to serve as representatives at show compliance proceedings an equal number of times during a calendar year. In the event a board member has a complaint regarding the frequency or infrequency of service as a representative, the complaint may be routed in writing to the Director of Hearings for the medical board who shall then bring the complaint to the attention of the presiding officer of the board for submission to the board for a resolution by a majority vote

(12) The show compliance proceeding may be held in conjunction with, and simultaneously with, an informal settlement conference held pursuant to subsection (h) of this section.

(13) The council's representatives may call upon board staff at any time for assistance in conducting the show compliance proceeding.

(14) The board's representatives shall prohibit or limit access to the board's investigative file by the licensee, the licensee's attorney or representative, the complainant, witnesses, and the public consistent with the Medical Practice Act, §4.05(c) and §185.23 of this title (relating to Investigations).

(15) At the conclusion of the show compliance proceeding, the board's representatives shall make recommendations for disposition of the complaint or allegations which may include recommendations of dismissal and closure of the related investigation. In the event a dismissal and closure of the investigation is not recommended, the representatives shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under the provisions of applicable law concerning contested cases.

(16) The licensee may have the show compliance proceeding recorded and reduced to writing at the licensee's expense

after providing written notice to the Director of Hearings for the medical board at least one day in advance of the show compliance proceeding. Recording and transcribing equipment shall be provided by the licensee. Efforts to mediate the disputed matters or discussions concerning possible settlement options shall not be recorded.

(d) Prehearing Conferences.

(1) Appearance. In any contested case the hearings examiner or administrative law judge on his or her own motion or on the motion of a party, may direct the parties, their attorneys, or representatives to appear before him or her at a specified time and place for a conference prior to the hearing for the purpose of:

(A) formulating issues;

(B) simplifying issues;

(C) discussing matters to be officially noticed;

(D) discussing the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as official records of the board or medical board, to the end of avoiding the unnecessary introduction of proof;

(E) ruling on any previously filed motions;

(F) discussing the procedure at a hearing;

(G) discussing the limitation, where possible, of the number of witnesses; and

(H) discussing such other matters as may aid in the simplification of the proceedings.

(2) Order. Action taken at the conference shall be recorded in an appropriate Order by the hearings examiner or administrative law judge.

(e) Motions.

(1) Any motion filed in a pending proceeding shall, unless made during a hearing:

(A) be in writing;

(B) set forth the specific grounds and reasons therefore, and the relief sought;

(C) be distributed to all parties of record over a certificate of service as outlined in §185.24(g) and (k) of this title (relating to Procedure-General);

(D) be filed with the hearings examiner not less than five days prior to the hearing date;

(E) if based on facts or matters which are not of record, be supported by an affidavit; and

(F) be ruled on by the hearings examiner at the prehearing conference or at the hearing.

(2) Motions for continuance or for dismissal of a complaint shall:

(A) comply with subsection (a) (1)-(6) of this section;

(B) make reference to all prior motions of the same nature filed in the same proceeding.

(3) When a complaint has proceeded to its hearing date, pursuant to the notice issued therein, no continuance or dismissal shall be granted by the hearings examiner or administrative law judge without the consent of all parties involved.

(f) Consolidated Hearings. A motion for consolidation of two or more complaints, applications, petitions, or other proceedings shall comply with subsection (e) of this section. Proceedings shall not be consolidated unless the board shall find that:

(1) the proceedings involve common questions of law and fact; and,

(2) separate hearings would result in unwarranted expense, delay, or substantial injustice.

(g) Place and Nature of Hearings. All hearings conducted in any proceedings shall be open to the public. All hearings shall be held in Austin, Texas, unless for good and sufficient cause the board shall designate another place of hearing in the interest of the public.

(h) Informal Disposition. Pursuant to the Administrative Procedure Act, §2001.056, the following rules shall apply to informal dispositions of any complaint or matter relating to the Physician Assistant Licensing Act or of any contested case.

(1) The board may make an informal disposition of any complaint or matter relating to the Act or of any contested case by stipulation, agreed order, agreed settlement, consent order, or default.

(2) In the event the board makes such a disposition of a complaint, contested

case, or other matter, the disposition shall be in writing and, if appropriate, the writing shall be signed by the licensee.

(3) To facilitate the expeditious disposition of complaints or contested cases, the board may provide a licensee with an opportunity to attend an informal settlement conference. The informal settlement conference may be held in conjunction with, and simultaneously with, a show compliance proceeding held pursuant to subsection (c) of this section.

(4) If the opportunity for an informal settlement conference is provided to a licensee, the licensee shall be provided with a brief statement of the nature of the allegations to be addressed at the conference along with a brief statement of the provisions of the Act which may be grounds for disciplinary action. These statements shall be provided to the licensee by certified mail, return receipt requested, overnight or express mail, or registered mail, to the last mailing address of the licensee or the licensee's attorney on file with the board. The licensee shall also be provided with written notice of the time, date, and location of the conference and the rules governing the proceeding by certified mail, return receipt requested, overnight or express mail, or registered mail, to the last mailing address of the licensee or the licensee's attorney on file with the board.

(5) Three members of the board, a physician assistant, a physician, and a public member, shall conduct the informal settlement conference as the board's representatives. The representative who has seniority on the board shall chair the conference.

(6) The informal settlement conference shall allow:

(A) board staff to present a synopsis of the allegations and the facts which staff reasonably believes could be proven by competent evidence at a hearing;

(B) the licensee to reply to the board staff's presentation and present facts the licensee reasonably believes could be proven by competent evidence at a hearing;

(C) presentation of evidence by the staff and the licensee which may include medical and office records, x-rays, pictures, film recordings of all kinds, audio and video recordings, diagrams, charts, drawings, and any other illustrative or explanatory materials which in the discretion of the board's representatives are relevant to the proceeding;

(D) representation of the licensee by counsel;

(E) presentation of oral or written statements by the licensee or the licensee's counsel;

(F) presentation of oral or written statements or testimony by witnesses; and,

(G) questioning of witnesses.

(7) The board's representatives shall exclude from the informal settlement conference all persons except witnesses during their testimony or presentation of statements, the licensee, the licensee's attorney or representative, board members, and board staff.

(8) During the informal settlement conference, the board's legal counsel or a representative of the Office of the Attorney General shall be present to advise the board's representatives or the board's staff.

(9) Except with the agreement of the licensee, during the deliberations of an appropriate settlement, the board's representatives at an informal settlement conference shall exclude the board staff which presented the allegations and facts related to the complaint against the licensee, the licensee, the licensee's attorney or representative, the complainant, witnesses, and the general public. Legal counsel for the board or a representative of the Office of the Attorney General shall be available to assist the representatives in their deliberations.

(10) After an informal settlement conference has been held, the staff of the board and the board's representatives shall be subject to the ex parte provisions of the Administrative Procedure Act with regard to contacts with board members and administrative law judges concerning the case.

(11) To the extent possible, board members are required to serve as representatives at informal settlement conferences an equal number of times during a calendar year. In the event a board member has a complaint regarding the frequency or infrequency of service as a representative, the complaint may be routed in writing to the Director of Hearings for the medical board who shall then bring the complaint to the attention of the presiding officer of the board for submission to the board for a resolution by a majority vote.

(12) At the informal settlement conference, the board's representatives will attempt to mediate disputed matters, and the board's representatives may call upon the staff at any time for assistance in conducting the informal settlement conference.

(13) The board's representatives shall prohibit or limit access to the board's investigative file by the licensee, the licensee's attorney or representative, the complainant, witnesses, and the public consistent with the Medical Practice Act, §4.05(c).

(14) Although notes may be made by the participants, mechanical or electronic recordings shall not be made of settlement discussions, mediation efforts, or the informal settlement conference.

(15) The settlement conference shall be informal and shall not follow the procedures established under this title for contested cases.

(16) At the conclusion of the informal settlement conference, the board's representatives shall make recommendations for disposition of the complaint or allegations which may include recommendations of dismissal and closure of the related investigation. In the event a dismissal and closure of the investigation is not recommended, the representatives shall make a recommendation regarding the disposition of the case in the absence of a hearing under the provisions of applicable law concerning contested cases. The board's representatives may make recommendations to the licensee for resolution of the issues. Such recommendations may include any disciplinary actions authorized by the Physician Assistant Licensing Act and such other reasonable restrictions or remedial actions that are in the public interest. These recommendations may be subsequently modified by the board's representatives or staff based on new information, a change of circumstance, or to expedite a resolution in the interest of protecting the public. The board's representatives may also conclude that the board lacks jurisdiction or that a violation of the Physician Assistant Licensing Act or the board's rules has not been established, and may recommend that the investigation be closed or referred for further investigation. These recommendations may be adopted, modified, or rejected by the duly convened board or through the duly authorized actions of the board's Disciplinary and Ethics Committee.

(17) The licensee may either accept or reject the settlement recommendations proposed by the board's representatives. If the licensee accepts the recommendations, the licensee shall execute the settlement agreement in the form of an Agreed Order or affidavit as soon thereafter as is practicable. If the licensee rejects the proposed agreement, the matter shall be referred to the board's staff for appropriate disposition as directed by the board's representatives or the Disciplinary and Ethics Committee. The board through staff may also schedule the matter for a hearing as described in §185.26 of this title (relating to Procedure-Hearing).

(18) Following acceptance and execution by the licensee of the settlement agreement, the agreement shall be submitted to the board for approval.

(19) The following relate to consideration of an agreed disposition by the board:

(A) Upon an affirmative majority vote, the board shall enter an Order approving the proposed settlement agreement. The Order shall bear the signature of the presiding officer of the board at such meeting and shall be referenced in the minutes of the board.

(B) If the board does not approve a proposed settlement agreement, the licensee shall be so informed and the matter shall be referred to the staff for appropriate action to include dismissal, closure, further negotiation, further investigation, an additional informal settlement conference, or a hearing.

(C) To promote the expeditious resolution of any complaint or matter relating to the Physician Assistant Licensing Act or of any contested case, with the approval of the executive director of the medical board, or the Disciplinary and Ethics Committee of the board, board staff may present a proposed settlement agreement to the board for consideration and acceptance without conducting an informal settlement conference. If the board does not approve such a proposed settlement agreement, the licensee shall be so informed and the matter shall be referred to board staff for appropriate action to include dismissal, closure, further negotiation, further investigation, an informal settlement conference, or a hearing.

§185.26. Procedure-Hearing.

(a) Presiding Officer. When the board en banc, or a committee or panel of the board, conducts a hearing pursuant to the Physician Assistant Licensing Act or the Medical Practice Act, the following apply:

(1) The hearing will be presided over by the presiding officer of the board.

(2) The presiding officer shall have the authority to:

(A) administer oaths;

(B) examine witnesses;

(C) rule on the admissibility of evidence;

(D) rule on motions;

(E) rule on amendments to pleadings;

(F) recess the hearing from day to day; and

(G) refer the hearing to an administrative law judge at the State Office of Administrative Hearings.

(b) Administrative Law Judges/Hearings Examiners.

(1) Authority. When the board utilizes an administrative law judge or hearings examiner such hearings shall be conducted in accordance with the Administrative Procedure Act, the Physician Assistant Licensing Act, the Medical Practice Act, the rules of this board, and all other applicable law.

(2) Duties. Except for accepting or rejecting proposed findings of fact or conclusions of law, issuing final orders on the merits, dismissing complaints, and making recommendations as to a licensee's discipline, the administrative law judge or hearings examiner shall have all the authority which the board has regarding the conduct of hearings including, without limitation, the following:

(A) to hold hearings and issue notices;

(B) to administer oaths and affirmations;

(C) to direct all parties to enter their appearance on the record;

(D) to subpoena and examine witnesses;

(E) to subpoena documents and other physical evidence;

(F) to hold conferences before, during, or after the hearing, to consider the matters specified in §185.25(d) of this title (relating to Procedure-Prehearing);

(G) to regulate the course and conduct of the hearing including, without limitation, setting the time and place of the hearing and/or continued hearings; fixing the time for filing of briefs and other documents; receiving relevant evidence; excluding evidence which is irrelevant, immaterial, repetitious, or cumulative; ruling upon offers of proof; regulating the manner of examination to prevent needless and un-

reasonable harassment, intimidation, expense, inconvenience, or embarrassment of any witness or party at a hearing; removing disruptive individuals; and ruling on motions;

(H) to submit in writing to the parties, a proposal for decision containing the elements specified in §185.27(a) of this title (relating to Procedure-Posthearing);

(I) to present and explain in person his or her proposal for decision to the board for its consideration and final action; and

(J) to dispose of any other matter that arises in the course of a hearing and to take any action authorized by the rules of the board, the Physician Assistant Licensing Act, the Medical Practice Act, the Administrative Procedure Act, and all other applicable law.

(c) Order of Proceeding.

(1) Hearings. In all proceedings, the petitioner, applicant, or complainant, respectively, shall be entitled to open and close. Where several proceedings are heard on a consolidated record, the hearings examiner or administrative law judge shall designate who shall open and close. The hearings examiner or the Administrative Law Judge in all cases shall determine whether and at what stage intervenors shall be permitted to offer evidence. After all parties have completed the presentation of their evidence, the hearings examiner or the Administrative Law Judge may call upon any party or the board staff for further material or relevant evidence upon any issue, to be presented at further public hearing after notice to all parties of record.

(2) Before the board. During proceedings before the board, en banc, the order of proceeding shall be the following:

(A) The hearings examiner or administrative law judge shall present his or her proposal for decision and recommended order, explaining the items as specified in subsection (b) of this section.

(B) The party adversely affected shall briefly state their reasons for being so affected, supported by the evidence of record.

(C) The other party or parties shall be given the opportunity to respond.

(D) The board as complainant shall have the right to close.

(E) The presiding officer or a member of the board may question any party as to any matter relevant to the proceeding.

(F) At the end of any argument by the parties, the board may deliberate the matter in executive session, but shall vote and announce its final decision in open meeting.

(3) Limitation. A party shall not inquire into the mental processes used by the board in arriving at its decision, nor be disruptive of the orderly procedure of the board's routine.

(d) Reporter and Transcripts.

(1) Option. A party has the option of furnishing his or her own stenographic reporter at his or her own expense or using the reporter by the board. If a party elects to provide his or her own reporter, the party shall notify the board prior to the commencement of the hearing.

(2) Original. The original transcript shall be delivered to the board as soon as practicable. A stenographic reporter may sell copies of a transcript. If the respondent in the proceedings requests the original record (statement of fact) of the testimony and evidence of a disciplinary hearing, the costs for the original record (transcript) shall be borne by the respondent (appellant) physician assistant. Any subsequent copies of the record (transcript) shall be borne by any person requesting same.

(3) Corrections. Suggested corrections to the transcript of the record may be offered within ten days after the transcript is filed in the proceeding, unless the board shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the board. If suggested corrections are not objected to, the board will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the board which shall then determine the manner in which the record shall be changed, if at all.

(e) Dismissal Without Hearing.

(1) The board may entertain motions for dismissal for the following reasons:

(A) failure to prosecute;

(B) unnecessary duplication of proceedings or res judicata,

(C) withdrawal;

(D) moot questions or stale petitions; or

(E) lack of jurisdiction.

(2) Such motions must meet the criteria of §185.25(e) of this title (relating to Procedure-Hearing).

(3) These motions may be argued prior to the board ruling thereon.

(f) Evidence.

(1) Rules. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. In all cases, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The board shall give effect to the rules of privilege recognized by law. Opportunity must be afforded all parties to respond and present evidence and argument of all issues involved.

(2) Objections. Objections to evidentiary offers shall be made and shall be noted in the record. Formal exceptions to rulings of the hearings examiner or administrative law judge during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearings examiner or administrative law judge the action which he or she desires.

(3) Offer of proof. If evidence is excluded from the record by an exclusionary ruling of the hearings examiner or administrative law judge, the evidence may be included in the record by an offer of proof by the sponsoring party by dictating into the record or submitting in writing the substance of the evidence. An offer of proof shall be sufficient to preserve the evidence for review.

(4) Office records. When subpoenaed by the board, the office records of each patient shall have stapled thereto an affidavit in the form approved and furnished by the board which contains the requisite elements to comply with the Texas Rules of Civil Evidence, 902(10)b, relating to the form of affidavits.

(5) Documents. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.

(A) Copies. Documentary evidence may be received in the form of

copies or excerpts if the original is not readily available. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearings examiner or administrative law judge may limit those admitted to a number which are typical and representative and may, in his or her discretion, require the abstracting of the relevant data from the documents and the presentation of the abstracts in the form of an exhibit; provided however, that before making such requirement the hearings examiner or the Administrative Law Judge shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made.

(B) Prepared testimony. In all contested proceedings and after service of copies upon all parties of record at such time as may be designated by the hearings examiner or administrative law judge, the prepared testimony of any witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness' being sworn and identifying the same. Such witness shall be subject to cross-examination and the prepared testimony shall be subject to a motion to strike in whole or in part.

(6) Official notice. Official notice may be taken of all facts judicially cognizable and of records of the board or medical board. In addition, notice may be taken of generally recognized facts within the area of the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest the material so noticed. The special skills or knowledge of the board and its staff may be utilized in evaluating the evidence.

(7) Limitations on number of witnesses. The hearings examiner or administrative law judge shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

(8) Exhibits.

(A) Form: Documentary exhibits shall be 8 inches by 11 inches in length, so as to not unduly encumber the files and records of the board. There shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to fact material and relevant to the issues involved in a particular proceeding.

(B) Marking and service. The original of each exhibit offered shall be marked sequentially for identification and tendered for inclusion in the evidentiary record. One copy shall be furnished to the hearings examiner or administrative law judge and one copy to each party of record or his or her attorney or representative.

(9) After hearing. No exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing unless specifically directed by the hearings examiner, administrative law judge, presiding officer, or by the board with copies of the late-filed exhibit served on all parties of record.

§185.27. Procedure-Posthearing.

(a) Proposals for Decision.

(1) Elements. In addition to any other requirement of the Physician Assistant Licensing Act or the Administrative Procedure Act, the administrative law judge shall serve on the parties a proposal for decision which shall contain:

(A) a summary of the evidence adduced by each party;

(B) a statement of the hearings examiner's or administrative law judge's reasons for the proposed decision;

(C) findings of fact expressed in clear, concise factual terms, neither summarizing nor reciting the evidence. Findings of fact must be based explicitly on the evidence and on matters officially noticed,

(D) conclusions of law necessary to the proposed decision;

(E) a listing and explanation of all mitigating and aggravating circumstances necessary to a complete understanding of the case by the board; and

(F) recommended disposition or discipline.

(2) Service. When a proposal for decision is prepared, a copy of the proposal shall be served forthwith by the hearings examiner or the administrative law judge on each party, his or her attorney of record or representative, and the board. Service of the proposal for decision shall be in accordance with §185.24(f) and (k) of this title (relating to Procedure-General).

(3) Statutory statement. If findings of fact are stated in statutory language, each finding must be accompanied by a concise and explicit statement of the facts supporting the finding.

(4) Proposed findings. Only when the hearings examiner or administrative law judge requests a party or parties to submit findings of fact will it be necessary for the administrative law judge to rule on each proposed finding in the recommended order.

(b) Exceptions and Replies.

(1) Entitlement. Any party of record who is aggrieved by the hearings examiner's or the administrative law judge's proposal for decision shall have the opportunity to file exceptions to the proposal for decision within 20 days from the date of service of the proposal for decision. Replies to the exceptions may be filed by other parties within ten days of the filing of the exceptions. Exceptions and replies shall be filed with the hearings examiner or the administrative law judge. Any extensions of time shall be as provided by §185.24(c) of this title (relating to Procedure-General).

(2) Form. The form of exceptions and replies are as specified in §185.24(f) of this title (relating to Procedure-General).

(3) Content. Each exception or reply to a finding of fact shall be stated concisely and shall summarize the evidence in support thereof. Arguments shall be logical and citations to authorities shall be complete.

(4) Briefs. Briefs shall be filed only when requested or permitted by the board, presiding officer, hearings examiner, or administrative law judge.

(5) Service. Exceptions and replies shall be served upon every party of record by the filing party pursuant to §185.24(k) of this title (relating to Procedure-General).

(c) Oral Argument. Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only in the sound discretion of the board. A request for oral argument may be incorporated in exceptions, briefs, replies to exceptions, motions for rehearing, or in separate pleadings.

(d) Final Decisions and Orders.

(1) Board action. The proposal for decision may be acted on by the board upon the expiration of ten days after the filing of replies to exceptions to the proposal for decision. Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of the decision or order shall be delivered or mailed to any party and to his or her attorney of record.

(2) Recorded. All final decisions and orders of the board shall be in writing or stated in the record and shall be signed

by the presiding officer of the board. A final order shall include findings of fact and conclusions of law, separately stated.

(3) Imminent peril. If the board finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite that finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as a prerequisite for appeal.

(4) Changes to Recommendation. To protect the public interest and ensure that sound principles govern the decisions of the board, it shall hereafter be the policy of the board to change a finding of fact or conclusion of law or to vacate or modify the proposed order of a hearings examiner or an administrative law judge when the proposed order is:

- (A) erroneous,
- (B) against the weight of the evidence;
- (C) based on unsound medical principles;
- (D) based on an insufficient review of the evidence;
- (E) not sufficient to protect the public interest; or
- (F) not sufficient to adequately allow rehabilitation of the physician assistant.

(5) Amended order. If the board modifies, amends, or changes the hearing examiner's or the administrative law judge's recommended order, an order shall be prepared reflecting the board's changes as stated in the record.

(6) Administrative finality. A final order or board decision is administratively final:

(A) upon a finding of imminent peril to the public health, safety, or welfare as outlined in paragraph (3) of this subsection;

(B) when absent the filing of a timely motion for rehearing upon the expiration of 20 days from the date the final order or board decision is entered; or

(C) when a timely motion for rehearing is filed and the motion for rehear-

ing is overruled by board order or operation of law as outlined in subsection (e) of this section.

(7) Rendering of final decision or order. The final decision or order must be rendered within 60 days after the date the hearing is finally closed. In a contested case heard by an administrative law judge, an extension of time for the issuing of a proposal for decision may be announced at the conclusion of the hearing.

(e) Motions for Rehearing.

(1) Filing Times. A motion for rehearing must be filed within 20 days after a party has been notified, either in person or by mail, of the final decision or order of the board.

(2) Board Action. Action by the board on the motion must be taken within 45 days after the date of rendition of the final decision or order. If board action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order. The board may, by written order, extend the period of time for filing the motions and replies and taking board action, except that an extension may not extend the period for board action beyond 90 days after the date of rendition of the final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date of the final decision or order. The parties may, by agreement, with the approval of the board, provide for a modification of the times provided in this section.

(f) The Record. The record in a contested case shall include:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings on them;
- (5) proposed findings of fact, conclusions of law, exceptions, and replies;
- (6) any decision, opinion, or report by the officer presiding at the hearing; and
- (7) all staff memoranda, correspondence from parties, or other data submitted to or considered by the hearings examiner or the administrative law judge or members of the agency who are involved in making the decision.

(g) Costs of Appeal. A party appealing a final decision of the board in a

contested case may be ordered by the board to pay all or a part of the cost of preparation of the original or a certified copy of the record of the proceeding that is required to be transmitted to the reviewing court

§185.28. *Medical Board Review and Approval.* Medical board approval of board rules under this section shall be memorialized in the minutes of the medical board, the minutes of a committee of the medical board, or in a writing signed by the medical board's presiding officer, secretary-treasurer, or authorized committee chair after consideration of the rules recommended by the board.

§185.29. *Construction.* The provisions of this chapter shall be construed and interpreted so as to be consistent with the statutory provisions of the Physician Assistant Licensing Act and the Medical Practice Act. In the event of a conflict between this chapter and the provisions of the Act(s), the provisions of the Act(s) shall control; however, this chapter shall be construed so that all other provisions of this chapter which are not in conflict with the Act(s) shall remain in effect.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511286

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 834-7728

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND CORRECTIONS**

**Part XIII. Texas
Commission on Fire
Protection**

**Chapter 427. Certified Training
Facilities**

- 37 TAC §§427.5, 427.7, 427.9, 427.11, 427.13, 427.15, 427.17, 427.19

The Texas Commission on Fire Protection proposes new §§427.5, 427.7, 427.9, 427.11, 427.13, 427.15, 427.17, and 427.19, concerning certified training facilities for paid fire protection personnel. The new sections replace repealed sections dealing with the same subject matter. The new sections are being renumbered to correct the omission of §427.5.

James Fiero, Fire Protection Personnel Advisory Committee Chairman, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Fiero also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be administrative convenience. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to propose rules for the administration of its powers and duties; and Texas Government Code, §419.028(2), which provides the commission the authority to certify facilities operated for training fire protection personnel or recruits.

Texas Government Code, §419.028 is affected by the proposed new sections.

§427.5. Apparatus.

(a) Certified Training Facility-Approved for Basic Structural Fire Protection Personnel.

(1) A pumper apparatus fully equipped as required by the Basic Fire Suppression Curriculum shall be readily available for use by the instructors for instructional purposes.

(2) Ladders or a ladder truck as required by the Basic Fire Suppression Curriculum shall be readily available for use by the instructors for instructional purposes.

(b) Certified Training Facility-Approved for Basic Aircraft Rescue and Fire Protection Personnel. Fire apparatus that is equipped to perform aircraft crash and rescue operations as required by the Basic Aircraft Rescue and Fire Protection Curriculum must be readily available for use by the instructors for instructional purposes.

§427.7. *Protective Clothing.* Each and every set of protective clothing, including proximity clothing, that will be used during the course of instruction for a commission approved basic fire protection personnel curriculum shall comply with §435.1(b) of this title (relating to Protective Clothing).

§427.9. *Equipment.* The following minimum equipment, that is applicable to the curriculum(s) the training facility is certified to teach, are required for certification as a certified training facility. The equip-

ment must be available for use by the certified training facility.

(1) Self-contained breathing apparatus in sufficient numbers to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training (Note: Must comply with §435.3(2) of this title relating to self-contained breathing apparatus).

(2) Standard class room equipment to include chalkboard, speaker rostrum, supportive instructional aids available to include audio visual projection equipment. The use of cutaways, models, flip charts and other visual aids are recommended to enhance effectiveness of the instruction (Note: The instructor needs to ensure all necessary equipment is available for trainees to use regarding the basic performance skills as identified in appropriate curriculum and to comply with §427.15 of this title (relating to Testing Procedures)).

(3) Other equipment and tools required by the applicable curriculum.

§427.11. *Reference Material.* A reference library is required. The library must contain the publications required to conduct research and develop lesson plans covering the material required in the applicable basic curriculum.

§427.13. Records.

(a) Training records shall be maintained by the training facility which reflect:

(1) who was trained, subject, instructor and date of instruction. (Note: individual records are required rather than class records); and

(2) individual trainee test scores to include performance testing.

(b) All training records must be maintained for a minimum of three years.

§427.15. Testing Procedures.

(a) A system for evaluating the effectiveness of the instruction, and the comprehension of the trainee is required.

(b) If performance skills are part of the applicable curriculum, performance testing shall be done and records kept indicating that each trainee has demonstrated an ability to consistently perform, individually and as a member of a team, all tasks and operations associated with the training in a safe manner and level of competency which contributes to the successful achievement of the purpose for which the task or operation is being performed.

(c) Performance testing should be utilized to the maximum extent practical. The performance skills contained in the ap-

plicable basic curriculum shall be utilized to satisfy performance skills requirements. Each trainee shall be prepared to demonstrate any performance skill before a commission representative as may be required in Chapter 439, Examinations for Certification.

(d) Written tests shall be designed to encompass the contents of the subjects being taught and phrased in a manner which can be readily understood by a trainee whose comprehension is at a level consistent with the academic level of the material being presented.

(1) Periodic written tests serve the dual purpose of permitting the instructor to evaluate the effectiveness of the instruction and the comprehension of the trainees. The instructor must determine that each trainee understands and comprehends the subject matter being presented. Trainees must maintain a grade average of not less than 70% for all periodic test administered during the course.

(A) A minimum of eight periodic written tests shall be administered during the course for certification of Structural Fire Protection Personnel, covering the subjects listed in the Basic Fire Suppression Curriculum.

(B) A minimum of four periodic written tests shall be administered during the course for certification of Aircraft Crash and Rescue Fire Protection Personnel, Marine Fire Protection Personnel, Fire Inspectors and Fire and Arson Investigator, covering the subjects listed in the applicable curriculum.

(2) Comprehensive Written Tests shall be administered utilizing one of the following options:

(A) Option "A"—A midterm and a final comprehensive written test shall be administered, if this option is utilized. The first or midterm comprehensive test shall be given no later than midway through the curriculum and shall relate to subjects presented from the beginning of the training until the date of test. The final comprehensive test shall be given at the conclusion of the training curriculum and shall relate to subject matter presented from the beginning of the training until the date of the test. Each trainee must maintain a grade average of not less than 70% for the two comprehensive tests. A trainee may be allowed one retest at the discretion of the training facility.

(B) Option "B"—A final comprehensive test shall be administered at the conclusion of the course and shall cover all

subjects listed in the training curriculum. Each trainee must score a grade of not less than 70% on the final examination. A trainee may be allowed one retest, at the discretion of the training facility.

(3) The tests in §427.15(d)(1) and (2) of this subsection shall be in addition to the commission examination required in Chapter 439 of this title (relating to Examinations for Certification).

(e) A master copy of written tests will be maintained for review by commission representatives. The certified training facility shall maintain copies of all tests for a minimum of three years.

§427.17. Staff.

(a) A training officer, as a minimum, must possess an Intermediate Fire Service Instructor Certification (Refer to §425.3 of this title relating to Intermediate Fire Service Instructor). A newly appointed training officer must, as a minimum, possess an Intermediate Fire Service Instructor Certification within one year from date of appointment.

(b) A coordinator, as a minimum, must possess an Intermediate Fire Education Specialist Certification (Refer to §425.303 of this title relating to Intermediate Fire Education Specialist Certification). A newly appointed coordinator must as a minimum possess an Intermediate Fire Education Specialist Certification within one year from date of appointment.

(c) All instructors, except guest instructors, must as a minimum possess a Basic Fire Service Instructor Certification provided in §425.1 of this title (relating to Minimum Standards for Fire Service Instructor Certification), a Basic Volunteer Fire Fighter Instructor Certification as provided in §475.1 of this title (relating to Minimum Standards for Basic Volunteer Fire Fighter Instruction Certification), a Basic Fire Education Specialist Certification as provided in §425.301 of this title (relating to Minimum Standards Fire Education Specialist Certification) or an Associate Instructor Certification as provided in §425.401 of this title (relating to Minimum Standards for Associate Instructor Certification). The instructor or instructors that will be providing instruction must be approved by the commission to instruct in the applicable curriculum or subjects.

(d) The lead instructor, as a minimum, shall possess an Intermediate Fire Service Instructor Certification (Refer to §425.3 of this title relating to Intermediate Fire Service Instructor) or an Intermediate Fire Education Specialist Certification (Refer to §425.303 of this title relating to Intermediate Fire Education Specialist Certification).

(e) Guest instructors, including fire protection personnel utilized on a limited basis, are not required to be certified as instructors. A guest instructor is defined as an individual with special knowledge, skill and expertise in a specific subject area who has the ability to enhance the effectiveness of the training. Guest instructors can teach under the endorsement of the instructor responsible for the subject being taught.

(f) The commission encourages all certified training facility staff to upgrade their instructor certification by completing the appropriate instructor training courses and other education requirements set forth for higher levels of instructor certifications.

§427.19. General Information.

(a) All Texas certified training facilities shall meet these minimum requirements. No training credit will be recognized from a Texas training facility that has not been certified by the commission. The commission shall take action on an application for certification of a training facility within 90 days from receipt of same.

(b) Certified training facilities are subject to inspection by the commission at any time during regular business hours.

(c) A certified training facility is encouraged to upgrade and improve the physical facilities, equipment and reference material on a continuing basis.

(d) In order to retain the certification as a certified training facility, schools desiring to make substantial changes in the facility or other conditions under which the school was approved shall coordinate such plans with the commission.

(e) The commission shall be notified, in writing, within ten days of any change in the certified training facility training officer or coordinator.

(f) The commission may revoke the certification of a training facility when, in the judgment of the commission, the training facility:

(1) is inadequate and fails to provide the quality of training required under which the facility was approved;

(2) fails to comply with commission rules and/or these minimum standards; or

(3) fails to submit required reports in a timely manner or submits false reports to the commission.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511261

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: October 13, 1995

For further information, please call: (512) 918-7184

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services
Chapter 11. Food Distribution and Processing

The Texas Department of Human Services (DHS) proposes the repeal of §11.105, proposes new §11.105, and proposes an amendment to §11.6008, concerning contractor sanctions, termination, and appeal rights and reimbursement, in its Food Distribution and Processing chapter. The purpose of the repeal, new section, and amendment is to clarify and simplify the adverse action process and time frames for sanctions for contractors participating in the Special Nutrition Programs who fail to comply with the requirements of the Single Audit Act. The proposal also moves the notification process in advance of the audit due date and deletes the suspension of payment step in the sanction process.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposal will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposal.

Mr. Raiford also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be enhanced program accountability by enabling DHS to expedite the collection and resolution of audits required under the Single Audit Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of the proposal may be directed to Nancy Hill at (512) 467-5852 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-536, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Food Distribution Program
• 40 TAC §11.105

(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 Department of Human Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs

The repeal implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

§11.105. Contract Termination and Appeal Rights.

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

Issued in Austin, Texas, on September 5, 1995

TRD-9511230

Nancy Murphy
Texas Department of
Human Services

Proposed date of adoption December 1, 1995

For further information, please call (512) 450-3765



The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The new section implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

§11.105. Contractor Sanctions, Termination, and Appeal Rights.

(a) The information in this subsection applies to recipient agencies participating in the Special Nutrition Programs whose required single audit falls due before June 1, 1996

(1) An applicant or recipient agency whose contract has been terminated has the right to appeal the termination as specified in Chapter 79 of this title (relating to Legal Services).

(2) The Texas Department of Human Services (DHS) imposes fiscal sanctions on recipient agencies for failure to comply with the requirements of the Single Audit Act.

(A) DHS takes fiscal sanctions against a recipient agency according to the procedures specified in subparagraphs (A)-(C) of this paragraph.

(i) DHS notifies each recipient agency upon approval of the application for program participation of the date

by which an acceptable audit must be received by DHS, and that failure to comply will result in sanctions up to and including contract termination and recovery of overpayments as identified through audit findings.

(ii) DHS notifies recipient agencies by certified mail within 15 days after a required audit is not received, or an audit is determined to be unacceptable, that failure to submit an acceptable audit within 60 days of receipt of the notification will result in termination.

(iii) If an acceptable audit is not received within the 60 days specified in clause (ii) of this subparagraph, DHS notifies the recipient agency by certified mail that the audit has not yet been received and that failure to submit the required audit within 30 days of receipt of this notification will result in termination in the next allocation period

(iv) If an acceptable audit is not received within the 30 days specified in clause (iii) of this subparagraph, DHS notifies the recipient agency that their contract is terminated effective upon receipt of this notification.

(B) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the recipient agency.

(C) If DHS imposes sanctions according to the procedures specified in paragraph (2) of this subsection for failure to submit an audit in compliance with the requirements of the Single Audit Act, and a recipient agency submits an audit which does not meet the requirements of the Single Audit Act, the sanction procedures will be re-initiated as specified in subparagraph (A) of this paragraph. DHS may extend the time within which a recipient agency must submit an audit if DHS determines such an extension is justified.

(b) The information in this subsection applies to recipient agencies participating in the Special Nutrition Programs whose required single audit falls due on June 30, 1996, or later.

(1) An applicant or recipient agency whose contract has been terminated has the right to appeal the termination as specified in Chapter 79 of this title (relating to Legal Services).

(2) DHS imposes fiscal sanctions on recipient agencies for failure to comply with the requirements of the Single Audit Act.

(A) DHS takes fiscal sanctions against a recipient agency according to the procedures specified in subparagraphs (A)-(D) of this paragraph.

(i) DHS notifies each recipient agency upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(ii) DHS provides the recipient agency three advance notices reminding the recipient agency of the specific date that the audit is due.

(I) DHS issues the first notice by regular mail six months after the end of the recipient agency's fiscal year for which the audit is due.

(II) DHS issues the second notice by regular mail nine months after the end of the recipient agency's fiscal year for which the audit is due.

(III) DHS issues the third notice by certified and regular mail 11 months after the end of the recipient agency's fiscal year for which the audit is due. DHS notifies the recipient agency that:

(-a-) DHS must receive the audit on or before the due date specified in the notice;

(-b-) if DHS does not receive the audit on or before the specified due date, DHS will terminate the recipient agency's contract effective the first day of the month following the month in which the audit was due; and

(-c-) the recipient agency has the right to appeal this decision.

(iii) If DHS does not receive the audit on or before the specified due date, DHS notifies the recipient agency by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(B) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the recipient agency.

(C) If a recipient agency submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the recipient agency in writing that the audit is unacceptable, how it is

unacceptable, and that the recipient agency has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the recipient agency by certified and regular mail that:

(i) the recipient agency failed to provide an acceptable audit within the specified time frames;

(ii) DHS must receive an acceptable audit by the due date specified in this notification;

(iii) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(iv) the recipient agency has the right to appeal this decision. DHS may extend the time within which a recipient agency must submit an audit if DHS determines such an extension is justified.

(D) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the recipient agency by certified and regular mail that:

(i) the recipient agency failed to provide an acceptable audit by the specified due date; and,

(ii) DHS terminated their contract effective the first day of the month following the specified due date.

(E) Once a recipient agency has been terminated for failure to submit an acceptable audit, the recipient agency must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995

TRD-9511231

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: December 1, 1995

For further information, please call: (512) 450-3765

The Emergency Food Assistance Program (TEFAP)

• 40 TAC §11.6008

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

§11.6008. Reimbursement.

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

(d) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996 for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(e) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

TRD-9511232 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption, December 1, 1995

For further information, please call (512) 450-3765

Chapter 12. Special Nutrition Programs

The Texas Department of Human Services (DHS) proposes amendments to §§12.24, 12.121, 12.209, 12.309, and 12.409, concerning sanctions and penalties and fiscal action in its Special Nutrition Programs chapter. The purpose of the amendments is to clarify and simplify the adverse action process and time frames for sanctions for contractors participating in the Special Nutrition Programs who fail to comply with the requirements of the Single Audit Act. The proposal also moves the notification process in advance of the audit due date and deletes the suspension of payment step in the sanction process

Burton F. Raiford, commissioner, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced program accountability by enabling DHS to expedite the collection and resolution of audits required under the Single Audit Act

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Nancy Hill at (512) 467-5852 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-536, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Child and Adult Care Food Program

• 40 TAC §12.24

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §33.001-33.024.

§12.24. Sanctions and Penalties.

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

(e) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(f) (No change.)

(g) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

TRD-9511233

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: December 1, 1995

For further information, please call: (512) 450-3765

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Summer Food Service Program

• 40 TAC §12.121

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §33.001-33.024

§12.121. Sanctions and Penalties

(a) (No change.)

(b) DHS imposes fiscal sanctions specified in this subsection on sponsors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The sponsor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(c) DHS imposes fiscal sanctions specified in this subsection on sponsors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The sponsor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a sponsor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each sponsor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the sponsor three advance notices reminding the sponsor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the sponsor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the sponsor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the sponsor's fiscal year for which the audit is due. DHS notifies the sponsor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the sponsor's contract effective the first day of the month following the month in which the audit was due; and

(III) the sponsor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the sponsor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the sponsor.

(3) If a sponsor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the sponsor in writing that the audit is unacceptable, how it is unacceptable, and that the sponsor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the sponsor by certified and regular mail that:

(A) the sponsor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the sponsor has the right to appeal this decision. DHS may extend the time within which a sponsor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the sponsor by certified and regular mail that:

(A) the sponsor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a sponsor has been terminated for failure to submit an ac-

ceptable audit, the sponsor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

TRD-9511234

Nancy Murphy
Section Manager, Media
and Policy Services

Proposed date of adoption: December 1, 1995

For further information, please call: (512) 450-3765

Special Milk Program

• 40 TAC §12.209

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §33.001-33.024.

§12.209. Fiscal Action.

(a) The Texas Department of Human Services (DHS) takes fiscal action against contractors according to the guidelines specified in 7 Code of Federal Regulations, §215.12. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(b) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(c) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time

frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

TRD-9511235

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: December 1, 1995

For further information, please call: (512) 450-3765

School Breakfast Program

• 40 TAC §12.309

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §33.001-33.024.

§12.309. Fiscal Action.

(a) The Texas Department of Human Services (DHS) takes fiscal action against contractors according to the guidelines specified in 7 Code of Federal Regulations, §220.14. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(b) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(c) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may

extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

TRD-9511236

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: December 1, 1995

For further information, please call: (512) 450-3765

National School Lunch Program

• 40 TAC §12.409

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.024 and §33.001-33.024.

§12.409. Fiscal Action.

(a) The Texas Department of Human Services (DHS) takes fiscal action against contractors according to the guidelines specified in 7 Code of Federal Regulations, §210.19(c). The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(b) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

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

(c) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on September 5, 1995.

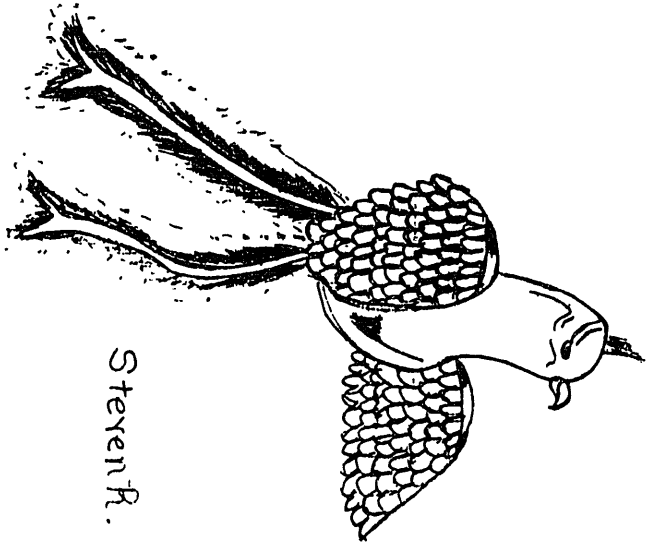
TRD-9511237

Nancy Murphy
Section Manager, media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: December 1, 1995

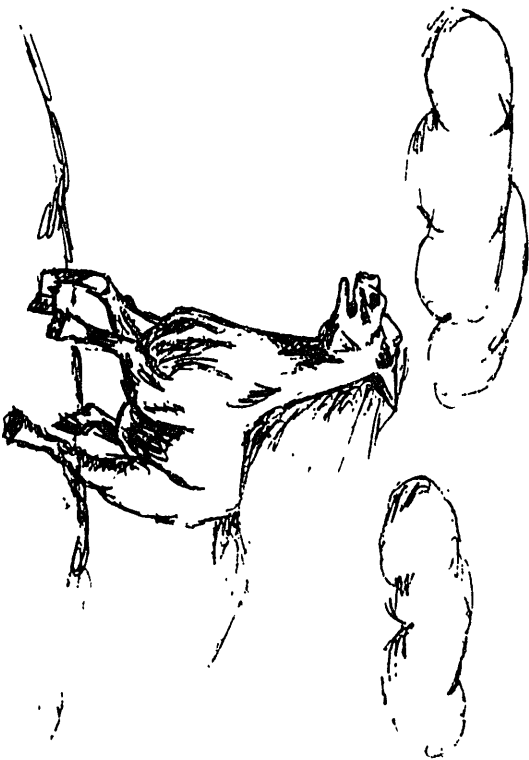
For further information, please call: (512) 450-3765

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Steven R.

Name: Steven Rodriguez
Grade: 7
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Victoria
Stevens

Name: Victoria Stevens
Grade: 7
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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 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 106. Guidelines for the Assessment of Administrative Fines

• 7 TAC §106.1

The State Securities Board adopts new §106.1, concerning guidelines for the assessment of administrative fines. The rule is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5350).

The new rule sets forth guidelines for the Securities Commissioner to consider in assessing the amount of an administrative fine under new §23-1 of The Securities Act, added by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995.

The rule apprises persons subject to the fining authority provisions of The Securities Act of the relevant factors that the Securities Commissioner will consider in determining the amount of such fines.

No comments were received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511181

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512)
305-8300

Chapter 113. Registration of Securities

• 7 TAC §113.2

The State Securities Board adopts an amendment to §113.2, concerning applications for registration by coordination. The rule is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5350).

The amendment implements changes made to §7.C(1) of The Securities Act, by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, and makes other non-substantive, grammatical changes to the section.

The amendment promotes uniformity between state and federal registration requirements by permitting certain open-end investment companies and unit investment trusts to submit the same financial statements at the state level as those they are required to provide on the federal level.

One comment letter was received regarding adoption of the new amendment. That letter, from the Investment Company Institute, supported the amendment. The Board agrees.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511182

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512)
305-8300

• 7 TAC §113.4

The State Securities Board adopts an amendment to §113.4, concerning application for securities registration. The rule is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5351).

The amendment implements changes made by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, to §8 of The Securities Act, governing consents to service of process.

The rule accommodates the Agency's participation in the Securities Registration Depository System ("SRD"), which, once implemented, will permit electronic filings of securities registration applications.

One comment letter was received regarding adoption of the new amendment. That letter, from the Investment Company Institute ("ICI"), supported the Board's intent, but recommended that acceptance of electronically filed consents to service of process not be limited to those filed through the SRD. Instead, the ICI recommended replacing the reference to the SRD with the phrase "an approved electronic filing service." The Board disagrees. Because of concerns about system security and open records requirements concerning such matters as file integrity, the Board prefers to consider its acceptance of alternative electronic filing systems, if any, as they are developed, and, accordingly, amend the rule to include them if appropriate.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511183

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

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• 7 TAC §113.5

The State Securities Board adopts an amendment to §113.5, concerning financial statements. The rule is adopted with changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5351). A change was made to subsection (c)(1) of the published proposal to clarify that prior offerings made by a small business issuer pursuant to certain exemptions will not disqualify such issuer from using the rule.

The amendment implements new §7.A(1)(f)(2) of The Securities Act, added by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, by defining the term "small business issuer" for purposes of the rule and prescribing the circumstances under which such an issuer can submit reviewed financial statements in connection with registration of securities by qualification.

The rule facilitates small business capital formation by relaxing the financial statement requirements for certain small business issuers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

§113.5. *Financial Statements.*

(a) Audited financial statements. Except as provided in subsection (b) of this section, all financial statements submitted to the Securities Commissioner pursuant to The Securities Act, §7.A(1)(f), (including all financial statements of the issuer and any entity that is being taken over by an issuer which has not been operating) must be audited, and an opinion must be expressed by an independent certified public accountant or an independent public accountant. Such opinion shall be one acceptable to the Securities Commissioner.

(b) Reviewed financial statements. Financial statements, prepared in accordance with generally accepted accounting principles, submitted by a small business

issuer in connection with a small business offering may be reviewed by an independent certified public accountant in accordance with the standards for reviewed financial statements promulgated by the American Institute of Certified Public Accountants.

(c) Small business issuer. For purposes of subsection (b) of this section, the term "small business issuer" shall mean any corporation:

(1) that has not previously sold securities by means of an offering involving public solicitation or advertising unless such offering was made in compliance with §139.16 of this title (relating to Sales to Individual Accredited Investors), §109.3(c) of this title (relating to Sales to Financial Institutions and Certain Institutional Investors under The Securities Act, §5.H), or The Securities Act, §5.H;

(2) that has not been previously required under federal or state securities law to provide audited financial statements in connection with any sale of its securities;

(3) that is not an investment company (including any mutual fund);

(4) that does not engage or propose to engage in petroleum exploration or production or other extractive industries;

(5) that is not subject to the reporting requirements of §13 or §15(d) of the Securities Exchange Act of 1934;

(6) that has its principal place of business in Texas and employs at least 50% of its full-time employees in Texas; and

(7) whose previous sales of securities (exclusive of debt financing with banks and similar commercial lenders) does not exceed \$500,000.

(d) Parent corporations. If a corporation otherwise meeting the criteria specified in subsection (c) of this section is a majority-owned subsidiary of another corporation, the subsidiary shall not be considered a "small business issuer" for purposes of subsection (b) of this section unless its parent corporation also meets the criteria specified in subsection (c) of this section.

(e) Small business offering. For purposes of subsection (b) of this section, the term "small business offering" shall mean that the amount of the offering must not exceed \$500,000.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511184

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

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Chapter 115. Dealers and Salesmen

• 7 TAC §115.3

The State Securities Board adopts an amendment to §115.3, concerning examinations. The rule is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5352).

The amendment expressly describes the examinations currently accepted, recognizes the new Uniform Combined State Law Examination (Series 66), and makes other non-substantive clarifications to the rule.

Persons subject to the examination requirements of The Securities Act will be apprised of the examinations accepted and the circumstances under which they are accepted.

One comment letter was received regarding adoption of the new amendment. That letter, from the Investment Company Institute ("ICI"), supported the amendment. The ICI noted that the amended rule would expressly permit applicants to substitute either the NASAA Investment Advisors Law Examination (Series 65) or the Uniform Combined State Law Examination (Series 66) for an examination on the Texas Securities Act. The ICI noted that providing these additional examination options eases the burden on investment adviser applicants without lowering the registration standards imposed on such persons. The Board agrees.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511185

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

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• 7 TAC §115.4

The State Securities Board adopts an amendment to §115.4, concerning evidences of registration. The rule is adopted without changes

to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5354).

The amendment clarifies the procedures the Agency employs in renewing dealer, agent, and salesman registrations and new subsection (g) prescribes certain circumstances under which reduced registration fees, authorized by The Securities Act, §42, added by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, would apply.

Persons who are required to register in certain dual capacities may request relief from payment of the full fee required by The Securities Act by filing a request with the Securities Commissioner. This filing would be made on new form §133.36-Request for Multiple Capacity Status which is concurrently adopted.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511186 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

Chapter 123. Administrative Guidelines for Registration of Open-End Investment Companies

• 7 TAC §123.1

The State Securities Board adopts an amendment to §123.1, concerning the treatment of certain registration applications. The amendment is adopted with changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5355). A change was made to subsection (b) of the published proposal to delete a reference to the one year permit period because certain permits, under certain circumstances, will last longer than one year.

The amendment implements changes to The Securities Act, §7.C(3), made by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995.

The amendment facilitates uniform renewal procedures for open-end investment companies and unit investment trusts on both the state and federal level.

One comment letter was received regarding adoption of the amendment. That letter, from the Investment Company Institute, supported the amendment. The Board agrees.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

§123.1. Generally.

(a) Treatment of certain registration applications. Applications to register securities of open-end investment companies and unit investment trusts subject to the provisions of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934, will be considered and treated as applications to register securities by coordination.

(b) Requirements for renewal applications. Since there is no statutory provision for the renewal of an expired permit, the expiration date should be noted with great care. The following requirements are prescribed for renewal applications.

(1) Renewal applications should be filed approximately one month prior to the date of expiration.

(2) A permit cannot be renewed if the renewal application is filed after the expiration date shown on the permit. However, when a timely and sufficient renewal application is filed on or before the expiration date, the authority of the existing permit is effective until the application is acted upon by the Securities Commissioner.

(3) Renewal applications for issuer's permits which have not been completed within 60 days after the expiration date of the permit being renewed will be denied unless the applicant satisfies the Securities Commissioner that the deadline should be extended. The preceding provision does not limit the power of the Securities Commissioner to deny a renewal application at any time after proper notice.

(4) Before a renewal application is denied, the applicant will be notified by certified or registered mail of the reasons alleged to warrant the denial and given an opportunity to show compliance with all requirements of law for renewal of the permit.

(c) There is no exemption under Texas law for an unregistered mutual fund

to accept unsolicited orders from Texas residents. Accordingly, all mutual fund shares must be registered and sold through a registered dealer, which may be the issuer itself. Included are no-load mutual fund shares. In addition, the following are required.

(1) Because of the continuous nature of the offering, distributors must conform to the dealer registration requirements of The Securities Act. Agents and salesmen must also be registered as provided in The Securities Act. Included within the registration requirements are financial institutions that engage in the sale or offer for sale of fund shares.

(2) In all cases, annual sales reports must be filed. Money market funds qualified as such under §123.3(c) of this title (relating to Conditional Exemption for Money Market Funds) must file this report as set forth in §123.3(g). Other open-end investment companies must file this report within 60 days from the end of the registrant's fiscal year.

(d) All registered investment companies and unit investment trusts engaged in a continuous offering of securities must file a preliminary copy of each revised prospectus and each materially revised advisory agreement contemporaneously with the filing of such exhibits with the SEC and sufficiently far in advance to allow review and substantive comment prior to finalizing the documents.

(e) The guidelines also apply to the registration of closed-end investment companies, where applicable.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511187 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

Chapter 131. Guidelines for Confidentiality of Information

• 7 TAC §131.1

The State Securities Board adopts an amendment to §131.1, concerning confidentiality of information. The amendment is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5356).

The amendment reflects a change to The Securities Act, §28.A, made by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, which expressly grants the Securities Commissioner discretion to supply information obtained during the course of an investigation to a receiver appointed under The Securities Act, §25-1.

The amendment reflects a more comprehensive approach toward the dissemination of confidential information by recognizing that the Securities Commissioner can supply investigatory information to a receiver appointed under The Securities Act.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511188 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

Chapter 133. Forms

• 7 TAC §133.7

The State Securities Board adopts the repeal of §133.7, the Application for Registration of Securities under the Securities Act of Texas form. The repeal is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5357).

The repeal allows for the simultaneous adoption of a new application for registration of securities form.

The repeal eliminates an outdated form.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction;

and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511189 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

The State Securities Board adopts new §133.7, concerning an Application for Registration of Securities form. The new form is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5357).

The new form reflects the revisions to The Securities Act, §7, made by House Bill 1295, Chapter 228, Acts, 74th Legislature, 1995, which, among other things, reduce paperwork requirements and ease financial statement requirements under certain circumstances.

The new form replaces the existing form, §133.7-Application for Registration of Securities under the Securities Act of Texas, which is being concurrently repealed.

One comment letter was received regarding adoption of the new form. That letter, from the Investment Company Institute, generally supported adoption of the new form. The Board agrees.

The new form is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511190 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

• 7 TAC §133.10

The State Securities Board adopts the repeal of §133.10, the investment company report of sales form. The repeal is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5357).

The repeal allows for the simultaneous adoption of a new investment company report of sales form.

The repeal eliminates a form which contains outdated information.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511191 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

The State Securities Board adopts new §133.10, the investment company report of sales form. The new form is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5358).

The new form provides a space for the Texas permit number and the fiscal year end date and will enable the Agency to more efficiently review and process investment company report of sales forms.

The new form replaces the existing form, which is being concurrently repealed, and will accurately reflect the requirements of The Securities Act, §7.C.

One comment letter was received regarding adoption of the new form. That letter, from the Investment Company Institute, supported adoption of the new form. The Board agrees.

The new form is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction;

rities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511192 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call (512) 305-8300

◆ ◆ ◆
• 7 TAC §133.12

The State Securities Board adopts the repeal of §133.12, the renewal application for mutual funds, employee benefit plans, and other continuous offerings form. The repeal is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5358)

The repeal allows for the simultaneous adoption of a new renewal application for mutual funds and other continuous offerings form

The repeal eliminates a form which contains outdated information.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications, defining terms, classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995

TRD-9511193 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call (512) 305-8300

◆ ◆ ◆
The State Securities Board adopts new §133.12, a renewal application for mutual funds and other continuous offerings form. The new form is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5358).

The new form will enable the Agency to more efficiently review and process investment company report of sales forms

The new form replaces the existing form, §133.12-Renewal Application-Mutual Funds, Employee Benefit Plans, and Other Continuous Offerings, which is being concurrently repealed, and will accurately reflect the requirements of The Securities Act, §7.

One comment letter was received regarding adoption of the new form. That letter, from the Investment Company Institute, supported adoption of the new form. The Board agrees.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995

TRD-9511194 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

◆ ◆ ◆
• 7 TAC §133.13

The State Securities Board adopts the repeal of §133.13, the application for renewal permit form. The repeal is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5358).

The repeal allows for the simultaneous adoption of a new application for renewal permit form

The repeal eliminates a form which contains outdated information.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms, classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 1, 1995

TRD-9511195 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

◆ ◆ ◆
The State Securities Board adopts new §133.13, the application for renewal permit form. The new form is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5359).

The new form enables the Agency to more efficiently review and process applications for renewal permits.

The new form replaces the existing form, which is being concurrently repealed, and accurately reflects the requirements of The Securities Act, §7.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511196 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

◆ ◆ ◆
• 7 TAC §133.36

The State Securities Board adopts new §133.36, a request for multiple capacity status form. The new form is adopted without changes to the proposed text as published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5359).

The new form corresponds to an amendment to §115.4(g), which is being concurrently adopted, and facilitates the review and processing of applications for multiple capacity status.

The new form provides a form on which certain applicants registered in multiple capacities with the Agency can request reduced registration fees.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

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

Issued in Austin, Texas, on September 1, 1995.

TRD-9511197 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date: September 22, 1995

Proposal publication date: July 21, 1995

For further information, please call: (512) 305-8300

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 163. Licensure

• 22 TAC §163.1

The Texas State Board of Medical Examiners adopts an amendment to §163.1, without changes to the proposed text as published in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5127).

The section as adopted will ensure that all qualified physicians will be licensed in Texas.

The section as adopted will function by clarifying the combinations of examinations acceptable for physician licensure.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511278 Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Effective date: September 27, 1995

Proposal publication date: July 18, 1995

For further information, please call: (512) 834-7728

Chapter 166. Physician Registration

• 22 TAC §166.6

The Texas State Board of Medical Examiners adopts new §166.6, without changes to the proposed text as published in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5128).

The section as adopted will provide a mechanism for implementing the exemption from the annual registration fee for those physicians practicing only voluntary charity care as mandated by House Bill 3116, 74th Legislature.

The section as adopted will function by exempting those qualified physicians from the annual registration fee following execution of a notarized affidavit.

No comments were received regarding adoption of the new section.

The new section is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and by-laws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511279 Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Effective date: September 27, 1995

Proposal publication date: July 18, 1995

For further information, please call: (512) 834-7728

Part XXX. Texas State Board of Examiners of Professional Counselors

Chapter 681. Professional Counselors

The Texas State Board of Examiners of Professional Counselors (the board) adopts amendments to existing §§681.15, 681.17, 681.26, 681.51, 681.52, 681.81, 681.82, 681.84, 681.91-681.96, 681.112, 681.178 and 681.220, concerning the licensing of professional counselors. Section 681.220 is adopted with changes to the proposed text as published in the July 11, 1995, issue of the *Texas Register* (20 TexReg 5009). Sections 681.15, 681.17, 681.26, 681.51, 681.52, 681.81, 681.82, 681.84, 681.91-681.96, 681.112, 681.178 are adopted without changes to the proposed text and therefore will not be republished.

Specifically, the sections cover license certificates, fees, counseling methods and practices, application procedures and materials, temporary licenses, post-graduate experience requirements and other conditions of supervision, examination and procedures, endorsement, reporting continuing education, and actions after administrative hearings. The amendments will allow the board's executive secretary to sign provisional license letters without having the board chair's signature; delete the application materials fee and raise the initial licensing fee, examination fee, and the license renewal fees; revise the acceptable fee payments; clarify language concerning expressive therapies; delete language relating to examination application deadlines; clarify language concerning temporary licenses and the maintenance of same; clarify language concerning the submission of documents to qualify for a temporary license; clarify language concerning the submission of documents to qualify for licensure by endorsement; establish further licensure requirements for supervisors; establish procedures for the licensing examination to be electronically administered and administered by a national testing company; revise requirements for persons who fail to take the exam or fail the exam; allow the board to collect a fee equal to the annual renewal fee from a person who is returning his or her license to active status from inactive status; clarify language relating to submission of official graduate transcripts to document continuing education; and establish procedures the board may take concerning the results of an administrative hearing.

The sections insure the regulation of professional counselors continues to identify competent practitioners and implements testing procedures that will be more convenient and efficient for licensees.

The following comment was received regarding the proposed amendments.

Comment: Concerning §681.220(d)(2), a commenter from the Clinicians Issues Committee of the Texas Counseling Association indicated concern that the amended language created an additional step to the formal hearing process, a diminution of due process for

the counselor, and an additional legal and financial burden for the counselor.

Response: The amendment sets forth the basis on which the board may revise recommended findings of fact and conclusions of law pursuant to the Administrative Procedure Act (APA), Government Code, §2001.058. The board disagrees that the amendment creates an additional procedure or burden since all proposals for decision which contain the findings and conclusions resulting from a formal hearing currently must be heard before the board. The APA allows revisions for "reasons of policy." The rule describes such reasons. The board has amended the proposed language to better describe its "reasons of policy."

Comments were received from the Clinicians Issues Committee of the Texas Counseling Association. The commenter was against the amendment to §681.220(d) (2) and expressed concerns over the adoption of the amendment.

Subchapter A. The Board

• 22 TAC §681.15, §681.17

The amendments are adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provides the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511296 James O. Mathis, Ed.D.
Chair
Texas State Board of Examiners of Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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

Subchapter B. Authorized Counseling Methods and Practices

• 22 TAC §681.26

The amendment is adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511284 James O. Mathis, Ed.D.
Chair
Texas State Board of Examiners of Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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

Subchapter D. Application Procedures

• 22 TAC §681.51, §681.52

The amendments are adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511265 James O. Mathis, Ed.D.
Chair
Texas State Board of Examiners of Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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

Subchapter F. Experience Requirements for Examination and Licensure

• 22 TAC §§681.81, 681.82, 681.84

The amendments are adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511268 James O. Mathis, Ed.D.
Chair
Texas State Board of Examiners of Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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

Subchapter G. Licensure Examinations

• 22 TAC §§681.91-681.96

The amendments are adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas on September 6, 1995.

TRD-9511267 James O. Mathis, Ed.D.
Chair
Texas State Board of Examiners of Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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

Subchapter H. Licensure

• 22 TAC §681.112

The amendment is adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511268

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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



Subchapter K. Continuing Education Requirements

• 22 TAC §681.178

The amendment is adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511269

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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



Subchapter M. Formal Hearings

• 22 TAC §681.220

The amendment is adopted under the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors with the authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act; §14(p) relating to rules concerning temporary licenses; and §19(b) relating to rules on fees.

§681.220. Action After the Hearing.

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

(d) Final orders or decisions.

(1) (No change.)

(2) To protect the public interest and to ensure that appropriate principles govern the decisions of the board, it is the policy of the board to change a finding of fact or conclusion of law or to modify the proposed order of an administrative law judge when the board determines that the proposed order is:

(A) against the weight of the evidence;

(B) based on misapplication or misinterpretation of laws, rules, or policies;

(C) based on insufficient review of the evidence;

(D) not sufficient to protect the public interest with respect to the recommended disciplinary action; or

(E) not appropriate recognition of whether or not rehabilitation of the licensee or applicant has occurred with respect to the recommended disciplinary action.

(3) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law.

(4) All final orders shall be signed by the chairperson of the board; however, interim orders may be issued by the ALJ.

(5) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(e)-(f) (No change.)

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511270

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Effective date: September 27, 1995

Proposal publication date: July 11, 1995

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



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.

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

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The Commissioner of Insurance, at a public hearing under Docket Number 2169 held at 9:00 a.m., August 29, 1995, in room 100 of

the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted a forms filing by the Office of the Secretary of State for a revised surety bond form entitled "Official Notary Public Bond For The State of Texas" (Bond). The bond is a requirement of Government Code, §406.010, Vernon's Texas Civil Statutes, as amended by Senate Bill 1391, acts of the 74th Legislature, Regular Session 1995. The form was filed in the Chief Clerk's Office on August 8, 1995.

The following revisions have been made to the Bond: The penalty of the bond has been increased from \$2,500 to \$10,000. The Bond form now incorporates into one document the application for a notary public along with the official oath. Further the Secretary of State has the authority to accept an electronic filing of the Bond if an agreement has been made

with the surety company.

There is no standard premium rate for the new bond limit. An insurance company must file with the Texas Department of Insurance for prior approval their proposed premium rate before they can use the revised Bond.

The full text of the surety bond form filing (Reference Number O-0895-20), was published in the August 15, 1995, issue of the *Texas Register* (20 TexReg 6200).

The Texas Department of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15 and 5.97.

The full text of the surety bond form entitled "Official Notary Public Bond For The State Of Texas", as adopted by the Texas Department of Insurance are filed with the Chief Clerk under (Reference Number O-0895-20) and is

incorporated by reference by Commissioner Order Number 95-0891.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

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

Issued in Austin, Texas, on September 6, 1995.

TRD-9511293 Alica M. Fectel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Effective date: September 27, 1995

For further information, please call: (512)
463-6328

◆ ◆ ◆



Name Ruben Carranza
Grade 8
School Bowman Middle School, Holland ISD

Ruben 8th
Carranza



Name Lea Shawstad
Grade 7
School Bowman Middle School, Holland ISD

Lea Shawstad
195

TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1: 22 TAC 185.23(f)(9)

TEXAS STATE BOARD OF PHYSICIAN ASSISTANT EXAMINERS
P.O. Box 149134
Austin, Texas 78714-9134

PROFESSIONAL LIABILITY CLAIMS REPORT

FILE ONE REPORT FOR EACH DEFENDANT PHYSICIAN ASSISTANT

PART I COMPLETE FOR ALL CLAIMS OR COMPLAINTS AND FILE WITH THE TEXAS STATE BOARD OF PHYSICIAN ASSISTANT EXAMINERS WITHIN 30 DAYS FROM RECEIPT OF COMPLAINT OR CLAIM. INCLUDE COPY OF CLAIM LETTER AND/OR PLAINTIFF'S COMPLAINT.

1. Name and address of insurer:

2. Defendant physician assistant:

License number: _____

3. Plaintiff's name:

4. Policy number:

5. Date claim reported to insurer/self-insured physician assistant:

6. Type of complaint: _____ claim only _____ lawsuit

7. Initial reserve amount after investigation:

(If this is not determined within 30 days, report this data within 105 days of filing the Part I report with the BOARD)

Person completing this report(SIGNATURE)

Person completing this report(PRINT NAME)

Phone number

PART II COMPLETE AFTER DISPOSITION OF THE CLAIM AS DEFINED IN 22 T.A.C., INCLUDING DISMISSALS OR SETTLEMENTS. FILE WITH THE TEXAS STATE BOARD OF PHYSICIAN ASSISTANT EXAMINERS WITHIN 105 DAYS AFTER DISPOSITION OF THE CLAIM. A COPY OF A COURT ORDER OR SETTLEMENT AGREEMENT MAY BE USED AS PROVIDED IN 22 T.A.C.

8. Date of disposition: _____

9. Type of Disposition:

_____ (1) Settlement

_____ (2) Judgment after trial

_____ (3) Other (please specify)

10. Amount of indemnity agreed upon or ordered on behalf of this defendant:

\$ _____. Note: If percentage of fault was not determined by the court or insurer in the case of multiple defendants, the insurer may report the total amount paid for the claim followed by a slash and the number of insured defendants. (Example: \$100,000/3)

11. Appeal, if known: ____ Yes ____ No. If yes, which party:

Person completing this report(SIGNATURE)

Person completing this report(PRINT NAME)

Phone number

NOTICE CONCERNING COMPLAINTS

Complaints about physicians, as well as other licensees and registrants of the Texas State Board of Medical Examiners, including physician assistants and acupuncturists, may be reported for investigation at the following address:

Texas State Board of Medical Examiners

Attention: Investigations

1812 Centre Creek Drive, Suite 300

P.O. Box 149134

Austin, Texas 78714-9134

Assistance in filing a complaint is available by calling the following telephone number:

1-800-201-9353

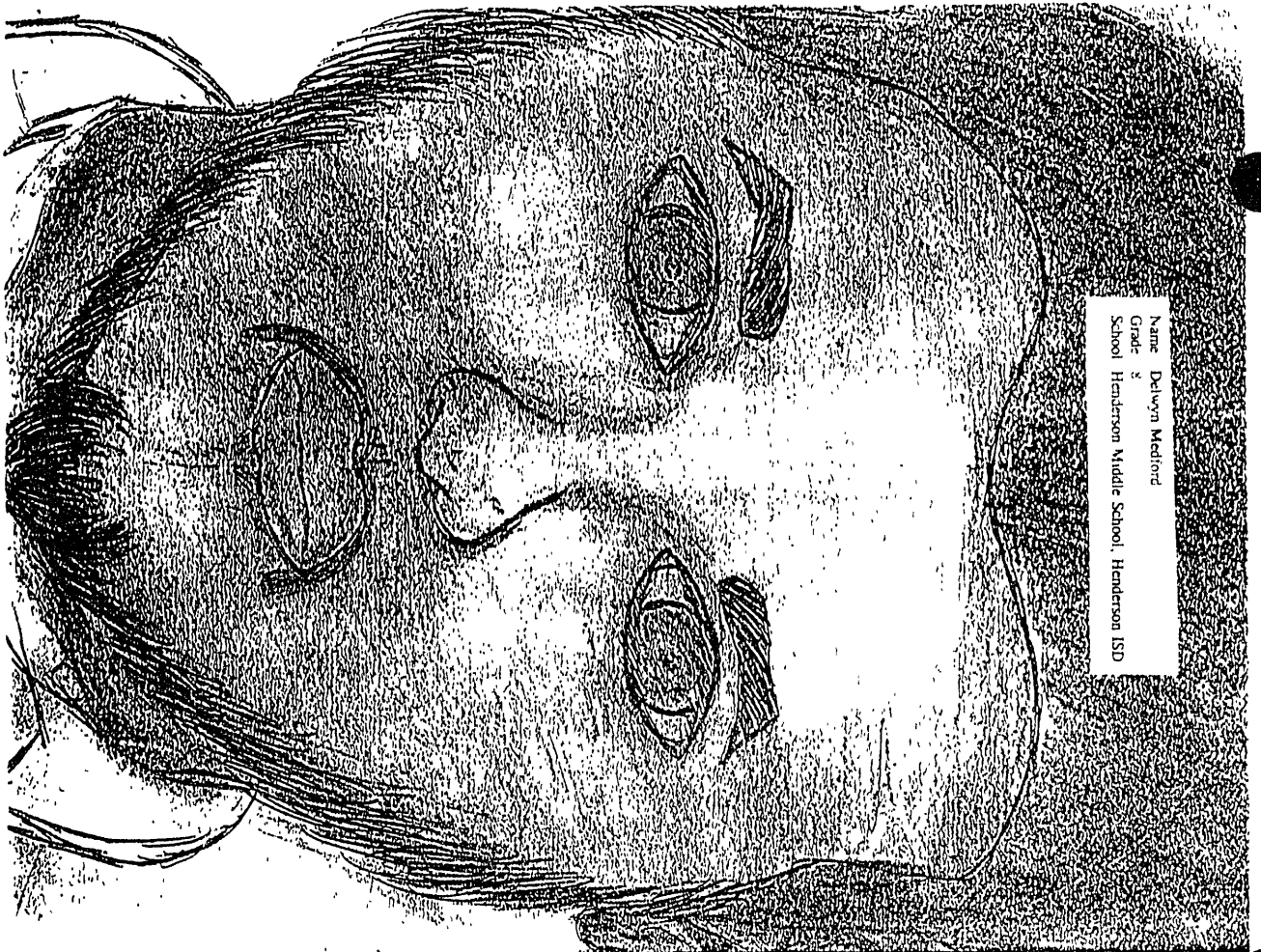
AVISO SOBRE QUEJAS

Se pueden presentar quejas acerca de médicos, así también como de otras personas autorizadas y registradas por la Junta de Examinadores Médicos del Estado de Texas (Texas State Board of Medical Examiners), incluyendo a ayudantes médicos y acupunturistas, para su investigación, en la siguiente dirección:

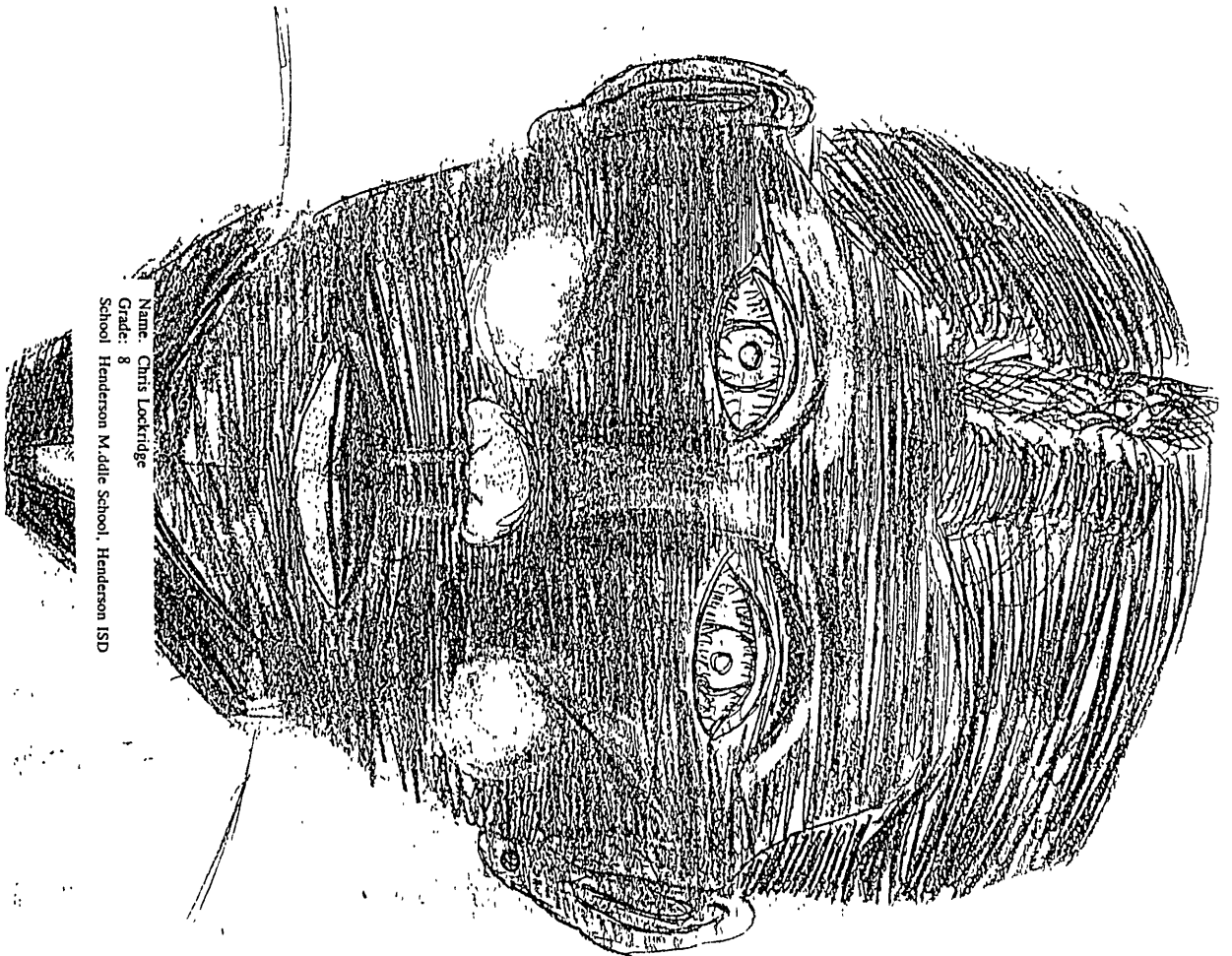
Texas State Board of Medical Examiners
Attention: Investigations
1812 Centre Creek Drive, Suite 300
P.O. Box 149134
Austin, Texas 78714-9134

Se puede obtener ayuda para presentar una queja llamando al siguiente número telefónico:

1-800-201-9353



Name: Delwyn Medford
Grade: 8
School: Henderson Middle School, Henderson ISD



Name: Chris Lockridge
Grade: 8
School: Henderson Middle School, Henderson ISD

OPEN MEETINGS

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

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

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

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

Texas Department of Agriculture

Tuesday, October 3, 1995, 10:00 a.m.
(Rescheduled from: July 11, 1995, 10:30 a.m.)

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Mendez Brothers Produce Company, Incorporated as petitioned by Smith Potato, Incorporated.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: September 6, 1995, 2:51 p.m.

TRD-9511361

The State Bar of Texas

Thursday, September 14, 1995, 1:30 p.m.

The Ritz-Carlton Hotel, 1919 Briar Oaks Lane

Houston

Executive Committee

AGENDA:

Call to order/roll call/approval of minutes/reports from: President, president-elect,

executive director, General Counsel Oversight Committee, Grant Review Committee, Office of General Counsel, Texas Young Lawyers Association President, immediate past president of the State Bar, and Supreme Court liaison/adjourn.

Contact: Pat Hiller, P.O. Box 12847, Austin, Texas 78711, 1-800-204-2222.

Filed: September 6, 1995, 4:17 p.m.

TRD-9511380

Friday, September 15, 1995, 9:00 a.m.

The Ritz-Carlton Hotel, 1919 Briar Oaks Lane

Houston

The Board of Directors

AGENDA:

Call to order/roll call/invocation/appointment-introduction of new board member/swearing in of new directors/consent agenda-chair election/items from: President; president-elect; executive director; Supreme Court liaison; Commission for Lawyer Discipline; Office of General Counsel; the following board committees: Ad Hoc Committee to Study MCLE Ethics Requirements, General Counsel Oversight, Grant Review, Nominations and Elections, and Policy Manual/reports from: Board members re local bar associations; immediate past president; Texas Young Lawyers Association president; Court of Criminal Appeals liaison; Texas Bar Foundation; State Bar committees/sections/divisions (Disaster Response, Family Law Section, Labor and

Employment Law Section, Litigation Section, MCLE Committee, Proposed Section, committee/section status reports; reports from: The Federal Judicial liaison; Judicial Section liaison, out-of-state lawyer liaison/remarks from the general public/adjourn.

Contact: Pat Hiller, P.O. Box 12847, Austin, Texas 78711, 1-800-204-2222.

Filed: September 6, 1995, 4:17 p.m.

TRD-9511381

Texas Cancer Council

Monday, September 25, 1995, 1:00 p.m.

Houston Hobby Hilton, 8181 Airport Boulevard

Houston

Strategic Planning Committee

AGENDA:

Call to order

Review and formulate recommendations for Fiscal Year 1996 action plan

Review objectives and set a tentative agenda for the TCC strategic planning retreat

Formulate recommendations for the revision of the Texas Cancer plan

Address projects' activities

Adjourn

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Debra Perkins at (512) 463-3190 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily F. Untermeyer, P.O. Box 12097, Austin, Texas 78711, (512) 463-3190.

Filed: September 7, 1995, 9:26 a.m.

TRD-9511427

Conservatorship Board

Tuesday, September 12, 1995, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Meeting

AGENDA:

Call to order; approval of September 5, 1995 minutes; executive session to discuss personnel matters; and adjournment.

Reason for Emergency: Necessary for Conservatorship Board to meet in order to meet Statutory mandate.

Contact: Tom Mann, 710 Brazos, Austin, Texas 78701, (512) 867-8809.

Filed: September 6, 1995, 4:19 p.m.

TRD-9511382

Texas Court Reporters Certification Board

Friday, September 15, 1995, 3:00 p.m.

2414 North Akard, Suite 600

Dallas

Court Reporting Curriculum Task Force

AGENDA:

The Court Reporting Curriculum Task Force will call the meeting to order; take attendance; approve minutes from previous meetings (as corrected); consider the notes of the last Task Force discussion on July 28, 1995; consider and possibly act on the report from the Entrance Exam/Student Tracking Committee; consider and possibly act on the report from the Curriculum/Levels of Certification Committee; hold a general discussion on admission requirements and curriculum development and possibly act on recommendations made; schedule next meeting; and adjourn.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for per-

sons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Peg Liedtke at (512) 463-1624 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: September 6, 1995, 3:40 p.m.

TRD-9511373

Texas Department of Criminal Justice

Thursday, September 14, 1995, 12:30 p.m.

Sheraton Bayfront Hotel, 707 North Shoreline Drive

Corpus Christi

Programs Committee

AGENDA:

I. Discussion of committee operations—Carol Vance and Carl Jeffries

II. Program reports

A. Windham School System—Dr. Chris Tracy and Board Liaison—Carole Young

B. Sex Offender Treatment Program—Cathy McVey and Board Liaison—Ellen Halbert

C. Substance Abuse—Debbie Roberts and Board Liaison—Joshua Allen

D. Victims—Raven Kazen and Board Liaison—Ellen Halbert

E. Volunteers—Cathy McVey and Board Liaison—Carol Vance

F. Voyager Program—Jerry Groom and Board Liaison—Carol Vance

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: September 6, 1995, 4:20 p.m.

TRD-9511386

Thursday, September 14, 1995, 2:30 p.m.

Sheraton Bayfront Hotel, 707 North Shoreline Drive

Corpus Christi

Facilities Liaison Management

AGENDA:

I. Authorization for construction/remodeling

A. Retrofit Area for SATF at Stiles Unit, Beaumont, Texas—change order (increase)—\$41,645.92

B. Coffield Unit Wastewater Treatment Plant, Tennessee Colony, Texas—\$4,615,028

II. Items furnished for information

A. Reallocate dollars from following Mode II State Jails: \$1,238,600

1) Willacy County—\$247,720

2) Williamson County—\$247,720

3) Dallas County—\$247,720

4) Jack County—\$247,720

5) Travis County—\$247,720

These dollars fund a change order to assist in constructing the Western Region Medical Facility in Lubbock, Texas addressed at a special meeting on August 28

III. Architectural Section

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: September 6, 1995, 4:20 p.m.

TRD-9511385

Thursday, September 14, 1995, 3:00 p.m.

Sheraton Bayfront Hotel, 707 North Shoreline Drive

Corpus Christi

Special Committee on Board Policies

AGENDA:

I. Overview of revision project

II. Review of policy drafts

A. BP 010.01—Delegation of Authority to Executive Director (formerly BP 01.03)

B. BP 010.02—Policies and Procedures (formerly BP 01.21)

C. BP 011.01—Board Operating Policy (formerly BP 01.05)

D. BP 011.02—Board Responsibility (formerly BP 01.06)

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: September 6, 1995, 4:20 p.m.

TRD-9511384

Thursday, September 14, 1995, 4:00 p.m.

Sheraton Bayfront Hotel, 707 North Shoreline Drive

Corpus Christi

Windham School Board of Trustees

AGENDA:

I. Regular session

A. Consent items

1. Minutes of the July 21, 1995 meeting

2. Employee contracts

3. Dual employment requests

4. Policy for State Personal Leave, 7.11-0
5. Revision of Federal Family and Medical Leave Act (FMLA) Policy, 7.11-6
6. Rescind Policy on Promotion, 7.37
7. Policy for Selection of Personnel, 7.37
8. Revision of Policy on Contract and Noncontract Employment, 7.05
9. Revision of the Progressive Discipline Policy, 7.44

D. Public comment

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: September 6, 1995, 4:20 p.m.

TRD-9511383

Thursday, September 14, 1995, 4:30 p.m.

Sheraton Bayfront Hotel, 707 North Shoreline Drive

Corpus Christi

Texas Board of Criminal Justice

AGENDA:

I. Executive session

A. Discussion with attorneys concerning: Alberti v. Sheriff of Harris County; Castillo v. Cameron County; Crowson; DeVonish v. Garza; Estell v. TDCJ; Gaines; Green International v. TDCJ; Guajardo v. McCotter; Lamar; MKK/North Star v. TDCJ; Moore; Nueces County v. TBCJ; Reed v. B.P.P.; Ruiz; Strain cases; Wackenhut B. Sweezy; Zapalac. (Closed in accordance with §551.071, Government Code.)

B. Discussion of matters made confidential under State Bar Disciplinary Rules of Professional Conduct. (Closed in accordance with §551.071, Government Code.)

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: September 6, 1995, 4:21 p.m.

TRD-9511387

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The Daughters of the Republic Texas, Inc.

Thursday-Friday, September 21-22, 1995, 8:30 a.m. and 9:30 a.m., respectively.

Headquarters/Museum Building, 510 East Anderson Lane

Austin

Board of Management

AGENDA:

The Daughters of the Republic of Texas, Inc., exercising an over abundance of cau-

tion, hereby notice a portion of this Board of Management meeting as an open meeting under Texas Open Meeting Act with regard to all matters pertaining to State-owned properties which are under the management or control of D.R.T., Inc.

Friday, September 22, 1995, 9:30 a.m.-Reconvene-open session, determination of quorum, reports or discussion preview to reports of committees operating State-owned properties which are under the management or control of D.R.T., Inc., Alamo Committee, DRT Library Committee, French legation.

Closed/executive session-determination of quorum.

Adjourn

Contact: Mary Kathryn Briggs, 3711 Stillmeadow Drive, Bryan, Texas 77802, (409) 846-0871.

Filed: September 6, 1995, 8:26 a.m.

TRD-9511254

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Interagency Council on Early Childhood Intervention

Thursday, September 14, 1995, 9:00 a.m.

Interagency Council on Early Childhood Intervention, 4412 Spicewood Springs Road, Building 600

Austin

AGENDA:

Public comment. Discussion and approval of minutes from August 24, 1995, meeting. Discussion and approval of the early childhood intervention advisory committee and director's forum report. Discussion and approval of staff recommendation to establish an 800 line. Discussion and approval of staff recommendation to award merit raises in fiscal year 1996. Discussion and approval to issue a request for proposal to provide early intervention services in Liberty, Montgomery, and Walker counties. Discussion and approval of a schedule of meetings of the Interagency Council on Early Childhood Intervention for fiscal year 1996. Discussion and approval of staff recommendation to provider internal audit activities in fiscal year 1996. Discussion and approval of staff recommendation to waive maintenance of effort requirements for Harris County Mental Health/Mental Retardation Authority. Discussion and update on section 153 reduction request from the Texas Comptroller's Office. Discussion and update on contract negotiations with the Texas Department of Human Services for the provision of administrative services in fiscal year 1996. Discussion and update on Medicaid. Discussion of Mental Health/Mental Retardation authority changes and the impact on

local programs. Discussion and update on status of investigations in Hidalgo County. Discussion and update on the purchase of director's and officer's liability insurance. Discussion and update on reference checks through the child abuse registry. Discussion and update on the audit of the Interagency Council on Early Childhood Intervention conducted by the State Auditor's Office. Discussion and update on consolidation activities for health and human service agencies.

Contact: Linda Hill, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 502-4900.

Filed: September 6, 1995, 8:30 a.m.

TRD-9511257

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Texas Education Agency

Thursday-Saturday, September 14-16, 1995, 9:00 a.m.

Austin Airport Holiday Inn, 6911 IH-35 North, Savannah Room

Austin

Clarification of Essential Knowledge and Skills Team-Foreign Languages (Project ExCELL)

AGENDA:

On September 14, the team will review performance standards for Texas foreign language content strands II-V, including progress checkpoints A, B, and C. On September 15, in the morning, the team will review forum reactions and revise content strands and essential knowledge and skills (content standards). On September 15, in the afternoon, the team will develop performance standards for content strand I (communication) with the assistance of Nancy Anderson of Educational Testing Service (ETS). On September 16, the team will continue developing performance standards for content strand I and discuss the Texas curriculum framework for foreign languages.

Contact: Robert LaBouve, 211 East Seventh Street, Austin, Texas 78701-3281, (512) 476-6861, Ext. 289.

Filed: September 5, 1995, 4:09 p.m.

TRD-9511251

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Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Friday, September 15, 1995, 10:00 a.m.

Rudder Tower, Texas A&M University, Room 302

College Station
Advisory Committee
AGENDA:

The Texas Feed and Fertilizer Control Service proposes changes to the Feed Rules to implement amendments to the Texas Feed Law effective January 1, 1996. Only members of the Feed and Fertilizer Control Service Advisory Committee will be heard.

Contact: Dr. George W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-1121.

Filed: September 7, 1995, 9:40 a.m.
TRD-9511434

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**Texas Commission on Fire
Protection**

Saturday-Sunday, September 16-17,
1995, 9:00 a.m.

12675 North Research Boulevard
Austin

Volunteer Fire Fighter Advisory Committee
AGENDA:

Call to order. Approval of minutes. New matters from committee members and the public for future committee meetings. Election of officers. Discussion and possible action on: 37 TAC Chapter 473; 37 TAC Chapter 476; 37 TAC Chapter 478; suggestions for increasing communications with volunteer fire fighters about the volunteer certification program; suggestions for increasing cooperation with the State Firemen's and Fire Marshals' Association and the volunteer certification program; request from the Commission to consult with TBEX Fire Protection Training Division; proposed changes concerning individuals accredited by the International Fire Service Accreditation Congress; future meetings.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 918-7100.

Filed: September 6, 1995, 3:15 p.m.
TRD-9511367

Wednesday-Thursday, September 20-21,
1995, 9:00 a.m.

12675 North Research Boulevard
Austin

Fire Protection Personnel Advisory Committee

AGENDA:

Discussion and approval of previous minutes. Overview, staff briefing of agenda items. Election of officers. New matters from members and public for future meet-

ing. Report from the Testing Committee. Discussion and possible action: on proposed new standards and curriculum for fire investigator certification; concerning changes to 37 TAC Chapter 421; on report concerning American Council on Education academic credit recommendations; regarding commission requirements for individual accreditation through IFSAC; concerning 37 TAC Chapters 423, Subchapter B and 437; concerning requirements for higher levels of certification for all disciplines of fire protection personnel; regarding staff inspections of regulated entities and interpretation of rules; on public comments concerning rules pending before the TCFP relating to paid fire protection personnel, part-time fire protection employees, and local fire departments. Discussion and possible action on future meeting dates, agenda items, and locations.

Contact: Carol Menchu, 12675 North Research Boulevard, Austin, Texas 78759, (512) 918-7100.

Filed: September 6, 1995, 3:15 p.m.
TRD-9511368

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**Office of the Governor,
Criminal Justice Division**

Wednesday, October 11, 1995, 9:30 a.m.
State Capitol Extension Auditorium, E2.174
Austin

Texas Narcotics Control Program

AGENDA:

The Texas Narcotics Control Program (TNCP) under the Criminal Justice Division is holding a meeting with the Governor's Drug Policy Advisory Board, commanders and regional representatives to discuss the 1996 Statewide Strategy and Prioritization of Authorized Purpose Areas.

I. Call to order

II. Discussion of 1996 Statewide Strategy

III. Prioritization of Authorized Purpose Areas

IV. Adjourn

Contact: Sharon Chesnut, P.O. Box 12428, Austin, Texas 78711-2428, (512) 463-1957.

Filed: September 5, 1995, 11:01 a.m.
TRD-9511212

◆ ◆ ◆
Texas Department of Health

Thursday, September 14, 1995, 10:00 a.m.

Room M-739, Texas Department of Health,
1100 West 49th Street

Austin

Texas Board of Health, Strategic Management Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the July 27, 1995 meeting; approval of the fiscal year 1996 operating budget and capital asset procurement plan; border health update; discussion of ongoing audits by the state auditor's office; congressional update; and mini-orientation on strategic planning.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 4:23 p.m.

TRD-9511407

Thursday, September 14, 1995, 1:00 p.m.

Room M-739, Texas Department of Health,
1100 West 49th Street

Austin

Texas Board of Health, Human Resources Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the July 27, 1995 meeting; final adoption of rules concerning the Poison Control Coordinating Committee; final adoption of the rules concerning the Texas Radiation Advisory Board; appointments to the Hazard Communication Advisory Committee; appointments to the Texas HIV Medication Advisory Committee; appointments to the Kidney Health Care Advisory Committee; and appointments to the Emergency Health Care Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 4:24 p.m.

TRD-9511408

Thursday, September 14, 1995, 3:00 p.m.

Room M-739, Texas Department of Health,
1100 West 49th Street

Austin

Texas Board of Health, Strategic Management Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the July 28, 1995 meeting; recommendation to the State

Medicaid director concerning proposed rules regarding Medicaid therapeutic optometrist treatment services; and recommendation to the State Medicaid director concerning proposed rules regarding EPSDT-CCP reimbursement clarification for providers of durable medical equipment, and for comprehensive outpatient rehabilitation facilities and outpatient rehabilitation facilities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 4:24 p.m.

TRD-9511409

Thursday, September 14, 1995, 4:00 p.m.
Room M-739, Texas Department of Health,
1100 West 49th Street

Austin

Texas Board of Health, Health and Clinical Services Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the July 27, 1995 meeting; proposed rules concerning reporting of childhood lead poisoning; and final adoption of rules concerning limitation of benefits in the Chronically Ill and Disabled Children's Services Program.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 4:24 p.m.

TRD-9511410

Health and Human Services Commission

Thursday, September 14, 1995, 9:15 a.m.
701 West 51st Street, Winters Building
Austin

Medical Care Advisory Committee

AGENDA:

Opening comments; State Medicaid director's comments; approval of minutes; ICF/MR Dental Program rule; therapeutic optometrist treatment services; utilization review; elimination of the physician attestation statement requirement; EPSDT-CP durable medical equipment reimbursement clarification; DPSDT dental services-dental and dental hygiene students; DAHS Program; technical rule changes; Primary

Home Care Program; make-up services; miscellaneous policy clarifications-Medicaid eligibility; burial fund policy technical rule changes; nursing facility requirements for licensure and Medicaid certification regarding withholding vendor's payment; open discussion by members; next meeting/adjournment.

Contact: Geri Willems, 4807 Spicewood Springs Road, Building 4, Austin, Texas 78759, (512) 502-3256.

Filed: September 6, 1995, 2:52 p.m.

TRD-9511363

Texas Department of Licensing and Regulation

Wednesday, September 13, 1995, 9:00 a.m.

920 Colorado, E. O. Thompson Building,
First Floor

Austin

Enforcement Division, Consumer Protection Section, Auctioneers

AGENDA:

According to the complete agenda, the department will hold an administrative hearing to consider the possible revocation of license for Charles Gary Coleman under the 16 Texas Administrative Code (TAC), Chapter 67, §67.101(4), four counts, Article 9100, the Government Code, and Chapter 2001 (APA), and for payment of disputed claims under the Texas Civil Statutes, Article 8700, §5C.

Contact: Paula Hamje, 920 Colorado, E. O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: September 5, 1995, 3:32 p.m.

TRD-9511245

Texas Council on Offenders with Mental Impairments

Monday, September 18, 1995, 1:30 p.m.
8100 Cameron Road

Austin

Full Council Meeting

AGENDA:

- I. Introductions/roll call
- II. Public comments
- III. Approval of minutes
- IV. Tarrant County Program for Offenders with Mental Impairments
- V. Policy Design Team policy

VI. CPAC report on Offenders with Mental Retardation

VII. Committee reports

* Nominations Committee

* Executive Committee-Overview of committee structure and member assignments

* Planning/Legislative Committee-Fiscal Year 1996 committee activities

* Program/Research Committee-Fiscal Year 1996 committee activities

* Finance Committee-Fiscal Year 1996 committee activities

VIII. Executive director's report

* TDCJ audit

* Dr. Teplin's report

* Fiscal Year 1996 contracts/budget report

* Council programs/operations

Each item above includes discussion and action as necessary

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: September 6, 1995, 3:17 p.m.

TRD-9511369

Texas Municipal Retirement System

Friday, September 15, 1995, 9:00 a.m.
(Rescheduled from: September 14, 1995.)

The Hyatt Regency, 208 Barton Springs Road

Austin

Special Workshop Meeting, Board of Trustees

AGENDA:

Workshop meeting for Board of Trustees and staff to discuss goals, objectives, and strategies for the system and receive reports from staff and consultants on current issues. No action will be taken on any item discussed during this meeting.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: September 5, 1995, 2:46 p.m.

TRD-9511240

Saturday, September 16, 1995, 9:00 a.m.
(Rescheduled from: September 15, 1995.)

1200 North IH-35

Austin

Regular Meeting, Board of Trustees

AGENDA:

To hear and approve minutes of the June 30, 1995, meeting; review and approve Ser-

vice Retirements, Disability Retirements; review and approve Supplemental Death Benefits payments; consider Extended Supplemental Death Benefits coverage; review and act on financial statements; consider and act on proposed by-laws for the Board of Trustees; consider and act on proposal by consulting actuaries to conduct comprehensive benefit analysis; consider and act on amendment to investment policy pursuant to House Bill 2168; consider and act on proposal for audit services for year-ending December 31, 1995; reports by staff and director; report by legal counsel; consider any other business to come before the board.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: September 5, 1995, 2:46 p.m.

TRD-9511241

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Tuesday, September 19, 1995, 10:00 a.m.

Environmental Pollution Control, 7411 Park Place

Houston

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Bank of Alameda doing business as Pine Colony Utility for an increase in water and sewer rates effective May 1, 1995, for its service area located in Harris County, Texas. TNRCC Docket Number 95-1043-UCR.

Contact: Sylvia McClellan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 5, 1995, 3:45 p.m.

TRD-9511248

Thursday, September 21, 1995, 9:00 a.m.

City Hall-City Council Chamber, 301 East Market

Sinton

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Coastal Chemical Company, Inc. for Proposed Permit Number 03780 to authorize an intermittent, flow variable discharge of stormwater through Outfall 001.

The applicant operates a bulk storage facility for distribution of organic chemicals. The plant site is on the west side of Floerke Road (County Road 81-A), approximately 1,700 feet north of the intersection of Floerke Road and Lang Road in the City of Portland, San Patricio County, Texas. The effluent is discharged into a three inch force main pipe to a series of roadside ditches; thence through a culvert to an unnamed tributary of Nueces Bay; thence to Nueces Bay in Segment Number 2482 of the Bays and Estuaries. TNRCC Docket Number 95-1267-IWD.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:53 a.m.

TRD-9511274

Friday, September 22, 1995, 10:00 a.m.

TNRCC, Building C, Room 131E, 12124 Park 35 Circle

Austin

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Nevada Water Supply Corporation to amend its Certificate of Convenience and Necessity (CCN) Number 12175 to allow it to expand the area to which it provides water utility service. CCN Number 12175 currently authorizes Nevada WSC to provide water utility service in Collin County, Texas; to amended CCN would authorize Nevada WSC to also provide water utility service in Rockwall County, Texas. The proposed utility service area (in Rockwall County) is approximately seven miles east of downtown Rockwall, Texas and is generally bounded on the south by I-30, on the west by the City of Fate, on the east by the City of Royse City, and on the north by the Nevada WSC CCN area. The total area being requested includes approximately 640 acres and 0 current customers. TNRCC Docket Number 95-1138-UCR.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:52 a.m.

TRD-9511271

Monday, September 25, 1995, 10:00 a.m.

TNRCC, Building A, Room 310 A and D, 12124 Park 35 Circle

Austin

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative

Hearings on an application made to the Texas Natural Resource Conservation Commission by Rancho Del Lago, Inc. for a change in water rates effective June 1, 1995, for its service area located in Comal County, Texas. TNRCC Docket Number 95-1093-UCR.

Contact: Bill Ehret, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:52 a.m.

TRD-9511272

Tuesday, September 26, 1995, 10:00 a.m.

Burnet County Courthouse-District Courtroom, 220 South Pierce

Burnet

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Lower Colorado River Authority for Proposed Permit Number 03802 to authorize the composting of sewage sludge from municipal wastewater treatment facilities. The permittee is also authorized to market and distribute digested and composted domestic sewage sludge. The site is approximately 36,075 square-feet with a composting area of 12,240 square-feet. All surface water runoff and process water from the composting pad, sludge delivery area, bulking agent storage area and finished product storage area will be collected and routed to the City of Burnet's wastewater treatment facility. No discharge of pollutants into the waters of the State is authorized by this permit. The composting site is adjacent to the City of Burnet wastewater treatment facility; approximately 1.3 miles south of the intersection of U.S. Highway 281 and State Highway 29 in Burnet County, Texas. The site is in the drainage area of Hamilton Creek in Segment Number 1404 of the Colorado River Basin. TNRCC Docket Number 95-1268-IWD.

Contact: Elizabeth Todd, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:53 a.m.

TRD-9511275

Tuesday, September 26, 1995, 2:00 p.m.

Canton City Hall, City Council Chambers, 290 East Tyler Street

Canton

AGENDA:

On an application by the City of Canton, Proposed Registration Number MSW40030, to operate a Type V municipal solid waste transfer station. The proposed transfer station is located on approximately 1.0 acre of

land, is to receive an average of 40 cubic yards of municipal solid waste per day, and is located 2,500 feet north of Interstate Highway 20, 1,500 feet west of State Highway 19, north of the City of Canton in Van Zandt County, Texas.

Contact: Charles Stavley or Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-4756.

Filed: September 5, 1995, 11:14 a.m.

TRD-9511213

Thursday, September 28, 1995, 10:00 a.m.

City Hall-Meeting Room, 500 Kirby Boulevard

Taylor Lake Village

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Lawrence Henry Homan, Jr. for renewal of Permit Number 13382-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 150,000 gallons per day from the Lake Estates Wastewater Treatment Facilities. The plant site is approximately 1,000 feet west of the Red Bluff Road crossing of Taylor Lake; and 2,000 feet east of the intersection of Red Bluff Road and Kirby Road in Harris County, Texas. The effluent is discharged via pipeline into Taylor Lake; thence into Clear Lake in Segment Number 2425 of the Bays and Estuaries. TNRCC Docket Number 95-0714-MWD.

Contact: Cynthia Hayes, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:53 a.m.

TRD-9511276

Friday, September 29, 1995, 10:00 a.m.

TNRCC, Building A, Room 310 A and D, 12124 Park 35 Circle

Austin

State Office of Administrative Hearings

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Coe Utilities, Inc., for a change in sewer rates effective August 14, 1995, for its service area located in Montgomery County, Texas. TNRCC Docket Number 95-1275-UCR.

Contact: Elizabeth Todd, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: September 6, 1995, 9:52 a.m.

TRD-9511273

Thursday, October 5, 1995, 1:00 p.m.

Hampton Inn Conference Room, 11010 IH-10 West

San Antonio

AGENDA:

On an application by Waste Technologies, Inc., Proposed Registration Number MSW40085, to construct and operate a Type V liquid waste transfer facility. The proposed site contains approximately 0.809 acres of land, and will accept up to 31,250 gallons of grease trap waste per day. The proposed facility will be located at 10360 U.S. Highway 90 West, on the south side of U.S. Highway 90, approximately 1,500 feet east of State Highway Loop 1604, just outside the city limits of San Antonio in Bexar County, Texas.

Contact: Charles Stavley or Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-4756.

Filed: September 5, 1995, 12:27 p.m.

TRD-9511217

Thursday, October 5, 1995, 3:00 p.m.

Hampton Inn Conference Room, 11010 IH-10 West

San Antonio

AGENDA:

On an application by Waste Technologies, Inc., Proposed Registration Number MSW2248, authorizing a Type VGG (Grease Trap) municipal solid waste management facility. The proposed site covers approximately 0.809 acres of land and will receive 100,000 gallons of municipal and commercial grease trap waste per day for processing. The facility will be located at 10360 U.S. Highway 90 West, on the south side of U.S. Highway 90, approximately 1,500 feet east of State Highway 1604, just outside the city limits of San Antonio in Bexar County, Texas.

Contact: Charles Stavley or Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-4756.

Filed: September 5, 1995, 12:27 p.m.

TRD-9511216

Tuesday, October 10, 1995, 10:00 a.m.

TNRCC, 12124 Park 35 Circle, IH-35 North at Yager Lane, Building B, Room 201A

Austin

AGENDA:

On an application by DSI Transports, Inc., Proposed Air Quality Permit Number 24182, TNRCC Docket Number 95-1300-

AIR, to construct and operate a tank semi-trailer cleaning facility. The facility will be located on Highway 59, 1/4 mile south of Interstate Highway 20 in Marshall, Harrison County, Texas.

Contact: Alfred Reyes, P.O. Box 13087, Austin, Texas 78711, (512) 239-1077.

Filed: September 5, 1995, 12:27 p.m.

TRD-9511218

Texas Board of Nursing Facility Administrators

Thursday, September 21, 1995, 8:30 a.m.

Room S-402, the Exchange Building, 8407 Wall Street

Austin

Education Committee

AGENDA:

The committee will discuss and possibly act on the following applicant educational requests (Jeff Miller; Sarah Hooks; John Robinson; Robert Pacasio; John Conkin; Dina Cook Jensen; and Maryetta Smith); and approval/denial of the following general education requests (Sunny Institute of Technology at Utica/Rome; Healthcare Centers of Texas, Inc.; Methodist Hospital; Comprehensive Therapies and Services; and University of North Carolina at Chapel Hill).

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 2:01 p.m.

TRD-9511354

Thursday, September 21, 1995, 9:30 a.m.

Room S-402, the Exchange Building, 8407 Wall Street

Austin

Finance Committee

AGENDA:

The committee will discuss and possibly act on: review/explanation of financial report; and nursing facility administrator licensure for structure.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 2:01 p.m.

TRD-9511355

Thursday, September 21, 1995, 10:30 a.m.

Room S-402, the Exchange Building, 8407 Wall Street

Austin

Policies and Procedure Committee

AGENDA:

The committee will discuss and possibly act policies and procedures related to Title 22, Texas Administrative Code, Chapter 241.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 2:01 p.m.

TRD-9511356

Thursday-Friday, September 21-22, 1995, 1:00 p.m. and 8:30 a.m., respectively **

Room S-402, the Exchange Building, 8407 Wall Street

Austin

Complaints Committee

AGENDA:

The committee will discuss and possibly act on the following complaints (04-94-04-00936; 04-94-04-00943; 04-94-04-00967; 05-93-02-06696; 05-93-03-07358; 07-93-05-03284; 07-93-05-03270; 07-93-05-00226; 07-93-05-02846; 07-93-05-02902; 09-94-12-00172; 09-94-12-00191; 94-0002; 94-00029; 94-00033; 94-NFA-00040; 94-00046; 94-00048; 94-00049; 94-00052; 94-00054; 94-00055; 94-00057; 95-00058; 95-00061; 95-00062; 95-00064; 95-00065; 95-00067; 95-00068; 95-00072; 95-00073; 95-00077; 95-00078; 95-00079; 95-00080; 95-NFA-00081; 95-NFA-00082; 95-NFA-00085; 95-NFA-00086; 95-NFA-00090; 95-NFA-00091; 95-NFA-00092; 95-NFA-00093; 95-NFA-00095; 95-NFA-00096; 95-NFA-00097; 95-NFA-00099; 95-NFA-00100; 95-NFA-00102; 95-NFA-00103; 95-NFA-00104; 95-NFA-00105; 95-NFA-00106; 95-NFA-00107; 95-NFA-00108; 95-NFA-00109; 95-NFA-00111; 95-NFA-00112; 95-NFA-00113; 95-NFA-00114; 95-NFA-00115; 95-NFA-00116; 95-NFA-00118; 95-NFA-00121; 95-NFA-00122; 95-NFA-00124; 95-NFA-00125; 95-NFA-00126; 95-NFA-00127; 95-NFA-00128; 95-NFA-00129; 95-NFA-00131; 95-NFA-00132; 95-NFA-00134; 95-NFA-00138; 95-NFA-00139; 95-NFA-00141; 95-NFA-00143; 95-NFA-00144; 95-NFA-00154; 95-NFA-00159; and 95-NFA-00160.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact

Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 2:01 p.m.

TRD-9511357

Friday, September 22, 1995, 10:00 a.m.

Room N-218, the Exchange Building, 8407 Wall Street

Austin

AGENDA:

The board will discuss approval of the minutes from the May 26, 1995 meeting; and discuss and possibly act on: committee reports (complaints; education; finance; and policies and procedures); board chairman report; and executive secretary's report.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: September 6, 1995, 2:01 p.m.

TRD-9511353

Texas Board of Occupational Therapy Examiners

Wednesday, September 13, 1995, 9:30 a.m.

333 Guadalupe, Suite 2-510

Austin

Application Review Committee

AGENDA:

I. Call to order

II. Review and possible action on the following applications: D. Harrison, P. McChristian-Jones, F. McGowan

III. Adjournment

Contact: Joy L. Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

Filed: September 5, 1995, 3:41 p.m.

TRD-9511247

Wednesday, September 13, 1995, 10:00 a.m.

333 Guadalupe, Suite 2-510

Austin

Board Meeting

AGENDA:

I. Call to order

II. Introduction of board members

III. Approval of June 7, 1995 and July 24, 1995 minutes

IV. Public comment

V. Discussion and possible action on selection of Board Committee Membership; Application Review Committee, Continuing Education Committee, Rules Committee

VI. Discussion and possible action on selection of Member-at-Large Board Representative to the Executive Council of Physical Therapy and Occupational Therapy Examiners

VII. Discussion and possible action on selection of Board Representative to the Health Professions Council

VIII. Executive session pursuant to §551.071 of the Government Code, consultation with attorney regarding pending or contemplated litigation

IX. Discussion and possible action on chair's report-Esperanza Brattin

X. Discussion and possible action on executive director's report-John Maline

XI. Discussion and possible action on acting coordinator's report-Joy Vaughn

XII. Discussion and possible action on Texas Occupational Therapy Association's report

XIII. Discussion and possible action on report from Investigation Committee

A. Investigative procedures

B. Agreed orders, cases #94-13, #95-12, #95-13

XIV. Discussion and possible action on report from Application Review Committee

XV. Discussion and possible action on final adoption of proposed rule changes as posted in the *Texas Register*, Chapter 362, §362.1; Chapter 365, §365.1; Chapter 366, §366.1; Chapter 367, §367.1; Chapter 369, §369.2; Chapter 370, §370.1; Chapter 374, §374.1

XVI. Discussion and possible action on report from Rules Committee on proposed rule revisions: Chapter 362, §362.1; Chapter 364, §364.1; Chapter 365, §365.1; Chapter 372, §372.1; Chapter 373, §373.1; Chapter 374, §374.3

XVII. Adjournment

Contact: Joy L. Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942.

Filed: September 5, 1995, 3:41 p.m.

TRD-9511246

Texas Parks and Wildlife Department

Thursday, September 14, 1995, 1:30 p.m.

5 Post Oak Park, Suite 1000

Houston

Operation Game Thief Committee

AGENDA:

1. Final adoption of rule change to Title 31, Natural Resources and Conservation, Chapter 55, Law Enforcement, Subchapter D, Operation Game Thief, 31 TAC §55.114; discussion—a. Brochure revision, b. Awareness and funding efforts, c. Membership structure.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: September 6, 1995, 1:41 p.m.

TRD-9511350

◆ ◆ ◆
Texas State Board of Plumbing Examiners

Tuesday, September 19, 1995, 8:30 a.m.

929 East 41st Street

Austin

Enforcement Committee

AGENDA:

8:30 a.m.—Call to order and roll call.

Consideration of minutes of August 24, 1995 Enforcement Committee meeting for adoption as recorded

Review of citation list and possible action

Informal conferences:

The committee will discuss the following cases with the individuals who have agreed to appear. Possible action by the committee on these cases.

9:00 a.m.—Case #95-0493, 10:30 a.m.—Case #95-0500, 1:00 p.m.—Case #95-0384

Review of applicants with criminal backgrounds/possible action

Complaint cases for review:

The following cases will be reviewed by and possibly acted upon by the committee as time allows before, between and after the scheduled informal conferences.

Numbers 95-0287, 95-0343, 95-0297, 95-0361, 95-0349, 95-0357, 95-0315, 95-0383, 95-0340, 95-0258, 95-0356, 95-0337, 95-0251, 95-0373, 95-0312, 95-0313, 95-0414, 95-0339, 95-0192, 95-0374, 95-0352, 95-0280, 95-0372, 95-0353, 95-0395, 95-0381, 95-0394, 95-0388, 95-0360, 95-0379, 95-0363, 95-0239.

Contact: Robert L. Maxwell, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145.

Filed: September 6, 1995, 1:47 p.m.

TRD-9511352

Tuesday, September 19, 1995, 8:30 a.m.

929 East 41st Street

Austin

Revised Agenda

Enforcement Committee

AGENDA:

8:30 a.m.—Call to order and roll call.

Consideration of minutes of August 24, 1995 Enforcement Committee meeting for adoption as recorded

Review of citation list and possible action

Informal conferences:

The committee will discuss the following cases with the individuals who have agreed to appear. Possible action by the committee on these cases.

9:00 a.m.—Case #95-0493, 10:30 a.m.—Case #95-0500, 1:00 p.m.—Case #95-0384

Review of complaints regarding continuing education

Review of applicants with criminal backgrounds/possible action

Complaint cases for review:

The following cases will be reviewed by and possibly acted upon by the committee as time allows before, between and after the scheduled informal conferences.

Numbers 95-0287, 95-0343, 95-0297, 95-0361, 95-0349, 95-0357, 95-0315, 95-0383, 95-0340, 95-0258, 95-0356, 95-0337, 95-0251, 95-0373, 95-0312, 95-0313, 95-0414, 95-0339, 95-0192, 95-0374, 95-0352, 95-0280, 95-0372, 95-0353, 95-0395, 95-0381, 95-0394, 95-0388, 95-0360, 95-0379, 95-0363, 95-0239.

Contact: Robert L. Maxwell, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145.

Filed: September 6, 1995, 3:46 p.m.

TRD-9511374

◆ ◆ ◆
Public Utility Commission of Texas

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A Hearing on the Merits will be held in Docket Number 14666-Application of Metropolitan Fiber Systems of Houston, Inc. for a Service Provider Certificate of Operating Authority. This application was filed on September 5, 1995. The applicant plans to provide Local Exchange Services which

will provide one or more voice grade equivalent local exchange telephone lines to the customer's premises from the applicant's end office switch for access to the public switched network, specifically basic dial tone lines, analog private branch exchange (PBX) trunks, analog director inward dial (DID) trunks, digital PBX and DID trunks and centrex-type system lines; Local Exchange Usage which will provide users of the applicant's local exchange lines direct dial calling, operator assisted calling, directory assistance service, access to Telecommunications Relay Service and emergency 911 service and switched access services providing trunk-side access (equivalent to Feature Group B and Feature Group D) to the applicant's end user exchange lines. MFSD proposed to serve the geographic areas of Houston Central and Houston North. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: September 6, 1995, 10:31 a.m.

TRD-9511303

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A Hearing on the Merits will be held in Docket Number 14665-Application of Metropolitan Fiber Systems of Dallas, Inc. for a Service Provider Certificate of Operating Authority. This application was filed on September 5, 1995. The applicant plans to provide Local Exchange Services which will provide one or more voice grade equivalent local exchange telephone lines to the customer's premises from the applicant's end office switch for access to the public switched network, specifically basic dial tone lines, analog private branch exchange (PBX) trunks, analog director inward dial (DID) trunks, digital PBX and DID trunks and centrex-type system lines; Local Exchange Usage which will provide users of the applicant's local exchange lines direct dial calling, operator assisted calling, directory assistance service, access to Telecommunications Relay Service and emergency 911 service and switched access services providing trunk-side access (equivalent to Feature Group B and Feature Group D) to the applicant's end user exchange lines. MFSD proposed to serve the geographic areas of Dallas Central, Dallas North and Plano. Persons who wish to intervene or otherwise participate in these proceedings

should make appropriate filings or comments to the Commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: September 6, 1995, 10:31 a.m.

TRD-9511304

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14649--Application of American Telco, Inc. for a service provider certificate of operating authority. This application was filed on September 1, 1995. American Telco plans to provide, on a resell basis, monthly recurring, flat-rate local exchange service including extended area service, full restriction, call control options, tone dialing, custom calling service, Caller ID and any other services which are available on a resell basis from the underlying incumbent local exchange carrier or other certificated carrier within the service area of American Telco as a service provider. American Telco plans to provide local exchange service in a geographic area which exactly follows the local exchange boundaries of the following underlying local exchange companies within the state of Texas: Southwestern Bell Telephone, GTE Southwest, Inc., Altel/Sugarland Telephone Company, Fort Bend Company Telephone and United Telephone Company of Texas, Inc. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 10:56 a.m.

TRD-9511211

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14650--Application of MFS Intelenet of Texas, Inc. for a service provider certificate of operating authority. This application was filed on September 1, 1995. Applicant intends to provide basic exchange services, including but not limited to basic lines, PBX trunks, Centrex and Centrex-like services, associated features, functions, services, and options, and local calling services, through the resale of any and all services available for resale in the State of

Texas. The geographic area to be served by MFSI-TX is identical to the entire area of the existing Southwestern Bell Telephone Company Dallas and Houston exchanges and the GTE Southwest Incorporated Plan exchange. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:05 p.m.

TRD-9511223

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14647--Application of U.S. Long Distance, Inc. for a service provider certificate of operating authority. This application was filed on September 1, 1995. USLD intends to resell all local exchange services in Texas as authorized by §3.2352 of the Public Utility Regulatory Act of 1995, as it now exists and as may subsequently be amended, to commercial and residential consumers. The geographic area to be served by USLD follow the boundaries of the existing service areas of the following exchange carriers: Southwestern Bell, GTE, Centel, Untiled Telephone and any other electing local exchange carrier. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 16, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:05 p.m.

TRD-9511224

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14648--Application of Worldcom, doing business as LLDS Worldcom for a service provider certificate of operating authority. This application was filed on September 1, 1995. LLDS Worldcom intends to offer exchange telephone services which are opened to competition by the Public Utility Commission of Texas or the Texas Legislature. WorldCom intends to serve the geographic regions currently served by the following incumbent LECs and hereby incorporated the bound-

aries of these LEC's exchanges as the boundaries of its proposed service areas: Southwestern Bell, GTE Southwest, Inc., Central Telephone Company of Texas, United Telephone Company of Texas, Inc., Alltel/Sugarland Telephone Company and Lufkin-Conroe Telephone Exchange, Inc. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:06 p.m.

TRD-9511225

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14651--Application of Kingsgate Telephone, Inc. for a certificate of operating authority. This application was filed on September 1, 1995. Kingsgate intends to provide the entire range of voice grade telecommunications services, including residential and business services, as well as enhanced ISDN services. Kingsgate will have the capability of providing custom calling features as well as class features. The geographic area to be served by Kingsgate is within Harris County, Texas. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:06 p.m.

TRD-9511226

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14633--Application of Teleport Communications Houston, Inc. for a certificate of operating authority. This application was filed on September 1, 1995. Teleport Communications Houston, Inc. intends to provide the entire range of local exchange and exchange access telecommunications services, as well as enhanced ISDN services. Teleport Communications Houston, Inc. intends to serve the geographic regions within the City of Houston and Harris County, Texas. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate

filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:06 p.m.

TRD-9511227

Friday, September 22, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 14634—Application of TCG Dallas for a certificate of operating authority. This application was filed on September 1, 1995. TCG Dallas intends to provide the entire range of local exchange and exchange access telecommunications services, as well as enhanced ISDN services. TCG Dallas intends to serve the geographic regions within Denton and Collin Counties. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by September 15, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 5, 1995, 2:06 p.m.

TRD-9511228

Texas Senate

Tuesday, September 12, 1995, 9:30 a.m.

1400 Congress Avenue, Capitol Extension, Room E1.012

Austin

Interim Committee on Juvenile Justice and Child Support

AGENDA:

1. Organizational meeting

Contact: Kimberly Thompson, P.O. Box 12068, Austin, Texas 78711, (512) 463-0070.

Filed: September 5, 1995, 2:06 p.m.

TRD-9511229

Texas Guaranteed Student Loan Corporation

Thursday, September 14, 1995, 1:30 p.m.

13809 North Highway 183, Suite 301

Austin

Budget/Finance/Audit Committee

AGENDA:

1. Call to Order

2. Approval of Minutes for the August 17, 1995, Committee Meeting

3. Review Revised Fiscal Year 1996 Budget Request

4. Recommendations for Action on the Revised Fiscal Year 1996 Budget

5. Adjourn

Contact: Shirley Allcorn, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4507.

Filed: September 6, 1995, 11:08 a.m.

TRD-9511312

Teacher Retirement System of Texas

Thursday, September 14, 1995, 8:00 a.m.

1000 Red River, Henry M. Bell, Jr. Boardroom

Austin

Board of Trustees Audit Committee

AGENDA:

Approval of official minutes of the March 30, 1995 and April 21, 1995 Audit Committee meetings; review current topics; review internal audit department reports; and other internal audit activity/special projects.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6411. For ADA assistance, contact Mary Godzik (512) 397-6411 or T.D. D. (512) 397-6444 or 1-800-841-4497 at least two days prior to the meeting.

Filed: September 6, 1995, 4:16 p.m.

TRD-9511378

Thursday, September 14, 1995, 1:00 p.m.

1000 Red River, Fifth Floor Boardroom

Austin

Board of Trustees Investment Committee

AGENDA:

Approval of minutes of June 15, 1995 meeting; discussion of investment activities; review of investments; consideration of proposed changes to approved common stock lists; consideration of recommended allocation of cash flow for current quarter; review of portfolio performance; review of annual real estate performance and review of investment outlook and market conditions.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6411. For ADA assistance, contact Mary Godzik (512) 397-6411 or T.D. D. (512) 397-6444 or 1-800-841-4497 at least two days prior to the meeting.

Filed: September 6, 1995, 4:16 p.m.

TRD-9511379

Thursday, September 14, 1995, 3:00 p.m.

1000 Red River, Room 514

Austin

Board of Trustees Policy Committee

AGENDA:

Approval of minutes of July 20, 1995, meeting and consideration of proposed changes to the investment policy statement.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6411. For ADA assistance, contact Mary Godzik (512) 397-6411 or T.D. D. (512) 397-6444 or 1-800-841-4497 at least two days prior to the meeting.

Filed: September 6, 1995, 4:16 p.m.

TRD-9511377

The Texas State University System

Wednesday-Friday, September 13-15, 1995, 4:00 p.m., 8:00 a.m., and 8:30 a.m., respectively.

Seminar A and B Conference Room, John Gray Institute, 855 Florida Avenue, Lamar University

Beaumont

Board of Regents

AGENDA:

Review of matters of the board and the universities in the system including: all matters reviewed by the Curriculum Committee (see Curriculum Committee agenda), the Construction and Planning Committee (see Construction and Planning Committee agenda) and the Finance Committee (see Finance Committee agenda) as submitted to the full board for review and approval; personnel actions including new employees re-employment of existing employees, promotions, resignations, retirements, terminations, tenure, commissioning of police officers, salaries/salary supplements and special appointment or interim appointment of any system employee including staff, faculty, presidents, and the chancellor; discussion of litigation, bond sales, budgetary changes, operating budgets and contract approvals for each university and the system administration; acceptance of gifts, admission requirements and fees; room and board rates; land leases, purchases, easements and sales and consideration of Aquarena Springs management contracts. (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: September 7, 1995, 9:36 a.m.

TRD-9511433

Friday, September 15, 1995, 11:00 a.m.

Seminar A and B Conference Room, John Gray Institute, 855 Florida Avenue, Lamar University

Beaumont

Curriculum Committee

AGENDA:

Review of matters of the board and the four universities in the System including: all matters of curriculum, including supplements to Twelfth Class Day reports, substantive and non-substantive program changes, new degree programs, additions, deletions and retention of courses, additions and deletions of degree courses, admission standards, out-of-state and out-of-country studies and institutional mission statements and table of programs. (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: September 7, 1995, 9:36 a.m.

TRD-9511432

Friday, September 15, 1995, 11:30 a.m.

Seminar A and B Conference Room, John Gray Institute, 855 Florida Avenue, Lamar University

Beaumont

Planning and Construction Committee

AGENDA:

Review of construction projects and documents for the universities in the System including: Angelo State University; final acceptance of the renovation of the University Health Clinic and the installation of a water filter system at the Central Plant, contract award for the roof replacement for the Vanderventer Apartments and the lease of farm land for the MIR center; Lamar University-Beaumont: contract award for roof replacement on the Gray Library; Sam Houston State University; selection of engineers to design the East Plant Chiller Replacement and the communication recabling of the campus, selection of architects for the University Center renovation, the renovation of additional space for the TRIES project and the renovation of Belvin and Smith dining facilities, preliminary plans for the renovation of the Estill Classroom Building, final acceptance of the construction of the Walker Education Center, the renovation of the Sam Houston Memo-

rial Museum Building and the renovation of space for the TRIES laboratory project, purchase orders for the renovation of vacant space in White Hall and for a hazardous waste storage building; and, Southwest Texas State University: contract awards for the Southwestern Writers Gallery and the roof repairs to E and G buildings and auxiliary buildings. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: September 7, 1995, 9:36 a.m.

TRD-9511431

Friday, September 15, 1995, Noon.

Seminar A and B Conference Room, John Gray Institute, 855 Florida Avenue, Lamar University

Beaumont

Finance Committee

AGENDA:

Review of financial matters of the System Office and the universities in the System including approval of expenditures, adjustment of budgets, approval of fees, internal audit reports and approval of the system investment policies. (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: September 7, 1995, 9:35 a.m.

TRD-9511430

Texas Turnpike Authority

Wednesday, September 13, 1995, 9:30 a.m.

Dallas Marriott Quorum, 14901 Dallas Parkway

Dallas

Board of Directors

AGENDA:

The agenda includes consideration of the following: Approval of minutes of board meeting of June 13, 1995 and committee meeting of August 10, 1995; Dallas Transportation System Management study matters; consideration of Dallas North Tollway (DNT) screen wall construction; TTA activity summary; consideration of President George Bush Highway matters: (a) acceptance of traffic and revenue report, (b) designation of 190T as an extension and enlargement of the DNT, (c) consider extension of contract with consulting engineers

for DNT, (d) authorize execution of 190T Tripartite and interagency agreement with FHWA and TxDOT, (e) consider authorization for TTA to secure proposals from TTA consultants to investigate the feasibility of 190T-W; consider award of service; procurement and construction contracts and policies: (a) consider interagency agreements with TxDOT; (b) consider interagency agreement with Texas AG; (c) consider award of trustee contracts for DNT and MCLB; (d) consider approval of agreement for MIS on IH-635; (e) consider contract for procurement and implementation of accounting system software; (f) consider award of contract for second ph. accounting consultant, (g) consider approval of deposit to DFW Trust Fund, and (h) consider designation of investment officer; executive session: (a) advice from counsel concerning (i) the open records request of MFS, (ii) approve settlement offer for Parcel 10-2, (iii) negotiations concerning Laredo Bridge Number IV, and (iv) personnel terminations and litigation, (b) deliberation concerning real property value, purchase, exchange, lease donation, negotiated settlement, and/or legal and advisor fees included in ROW Appraisal/Offer/Purchase List Number 64, (c) deliberation concerning appointment, employment, evaluation, reassignment, duties, discipline, and/or dismissal of various staff persons and positions, and (d) briefing concerning (i) issuance of Series 1995 190T Revenue Bonds, (ii) the financing and construction of 190T, (iii) the revolving fund, and (iv) VIVID acquisition; consider acceptance of Right-of-Way Appraisal/Offer/Purchase List Number 64; consider election of TTA officers; reports and recommendations of committee chairpersons and comments of directors, (a) Sound Committee, (b) Staff/Financial Advisor Selection Committee, (c) Legislative Committee, and (d) Budget Committee; consider preliminary approval of proposed operating budgets for calendar year 1996: (a) Dallas North Tollway, (b) Mountain Creek Lake Bridge, (c) Feasibility Study Fund and (d) consider transfer of capital from DNT Capital Improvement Fund to TTA Feasibility Study Fund; consider adoption of TTA investment policy and strategy; consider adoption of 1997 policy/legislation goals; consider retaining a special TTA legislative advisory counsel and receive public comments.

Contact: Jimmie G. Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: September 5, 1995, 3:10 p.m.

TRD-9511243

University Interscholastic League

Monday, September 11, 1995, 9:00 a.m.

Thompson Conference Center, 26th at Red River

Austin

Waiver Review Board

AGENDA:

AA. Request for waiver of the Parent Residence Rule by Dustin Allen, Westlake High School, Austin.

BB. Request for waiver of the Four Year Rule by Joshua Everett, Paschal High School, Fort Worth.

CC. Request for waiver of the Four Year Rule by Russell Dillard, Kingwood High School, Humble.

DD. Request for waiver of the Four Year Rule by Carlos Lopez, Greenwood High School, Midland.

EE. Request of waiver of the Four Year Rule by Nathan King, Livingston High School.

FF. Request for waiver of the Four Year Rule by David Edmundson, Aldine High School, Houston.

GG. Request for waiver of the Parent Residence Rule by Isaiah De La Rosa, Harlingen South High School.

HH. Request for waiver of the Four Year Rule by Dale Givens, Shallowater High School.

II. Request for waiver of the Four Year Rule by Brian Cline, Boys Ranch High School.

Contact: Sam Harper, 3001 Lake Austin Boulevard, Austin, Texas 78703, (512) 471-5883.

Filed: September 6, 1995, 2:53 p.m.

TRD-9511364

Board for Lease of University Lands

Thursday, September 14, 1995, 9:00 a.m.

Stephen F. Austin Building, Room 831, 1700 North Congress Avenue

Austin

AGENDA:

1. Approval of May 23, 1995, minutes of the board for lease meeting held on that date

2. Application by Pogo Producing Company for a temporary production unit in Blocks 20 and 21, Winkler and Loving counties

3. Oil Royalty Take In-Kind Program

4. Executive session pursuant to authority granted under §551.071 of the Texas Open Meetings Act regarding pending or contemplated litigation; including Cause Number 95-0868Q in the District Court of Travis County, Texas, 345th Judicial District and Cause Number 95V-241 in the District Court of Fayette County, Texas, 155th Judicial District

5. Action, if any, with regard to Cause Number 95-08680 in the District Court of Travis County, Texas, 345th Judicial District

Persons with disabilities who plan to attend the meeting and who may need auxiliary aids or services may contact Kathy Cope at (512) 499-4462 at least two work days prior to the meeting date so that appropriate arrangements can be made.

Contact: Mary Burke, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4462.

Filed: September 6, 1995, 4:16 p.m.

TRD-9511375

Regional Meetings

Meetings Filed September 5, 1995

The Capital Area Planning Council General Assembly will meet at the Wyndham Southpark Hotel, IH-35 South at Ben White Boulevard, Austin, September 13, 1995, at 11:45 a.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite #100, Austin, Texas 78704, (512) 443-7653. TRD-9511220.

The Central Texas Area Consortium (Regular Meeting) met at 2 North Fifth Street, Temple, September 7, 1995, at 7:00 p.m. Information may be obtained from Michael B. Herring, P.O. Box 3303, Temple, Texas 76505-3303, (817) 791-9102. TRD-9511207.

The Central Texas MHMR Center Board of Trustees met at 408 Mulberry, Brownwood, September 11, 1995, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574. Ext. 102. TRD-9511238.

The Deep East Texas Private Industry Council, Inc. Planning/Education Advisory Committee will meet at 300 West Shepherd, Room 102, Lufkin, September 12, 1995, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9511209.

The Deep East Texas Private Industry Council, Inc. will meet at 300 West Shep-

herd, Room 102, Lufkin, September 12, 1995, at 2:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9511210.

The Eastland County Appraisal District Appraisal Review Board will meet at 100 Main, Eastland, September 21, 1995, at 11:00 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9511208.

The Edwards Aquifer Authority Board met at KLRN-TV, 501 Broadway, San Antonio, September 8, 1995, at 6:00 p.m. Information may be obtained from Stephan B. Rogers, P.O. Box 15830, San Antonio, Texas 78212, (210) 222-2204. TRD-9511252.

The Garza Central Appraisal District Board of Directors will meet at 124 East Main, Post, September 13, 1995, at 9:00 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9511214.

The Garza Central Appraisal District Board of Directors will meet at 124 East Main, Post, September 13, 1995, at 9:30 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9511215.

The Permian Basin Regional Planning Commission Board of Directors will meet at 2910 La Force Boulevard, Midland, September 13, 1995, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9511249.

The San Patricio Appraisal District Board of Directors will meet at 1146 East Market, Sinton, September 14, 1995, at 10:00 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9511206.

The South Franklin Water Supply Corporation Board of Directors will meet at the Office of South Franklin Water Supply Corporation, 4430 Highway 115, South of Mount Vernon, September 12, 1995, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9511242.

The South Plains Association of Governments General Assembly will meet at the Holiday Inn Civic Center, 801 Avenue Q, Lubbock, September 14, 1995, at 6:00 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9511219.

The Trinity River Authority of Texas Central Regional Wastewater System Right-of-Way Committee will meet at 5300 South Collins Street, Arlington, September 12, 1995, at 10:30 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9511239.

The Wheeler County Appraisal Board of Directors met at 103 East Texas, Courthouse Square, Wheeler, September 11, 1995, at 5:00 p.m. Information may be obtained from Larry Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9511221.

The Wheeler County Appraisal Board of Directors met at 103 East Texas, Courthouse Square, Wheeler, September 11, 1995, at 5:00 p.m. Information may be obtained from Larry Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9511222.

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**Meetings Filed September 6,
1995**

The Austin Transportation Study Policy Advisory Committee met at the Covington Middle School Theater, 3700 Convict Hill Road, Austin, September 11, 1995, at 6:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-2569. TRD-9511362.

The Bell County Tax Appraisal District Board of Directors will meet at 411 East Central Avenue, Belton, September 13, 1995, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513, (817) 939-5841. TRD-9511259.

The Bexar-Medina-Atascosa Counties Water Control and Improvements District #1 Board of Directors met at 221 Highway 132, Natalia, September 11, 1995, at 8:00 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 665-2132. TRD-9511262.

The Burnet County Appraisal District Appraisal Review Board will meet at 223 South Pierce, Burnet, September 22, 1995, at 1:00 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9511415.

The Concho Valley Council of Governments Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, September 13, 1995, 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-9511351.

The Deep East Texas Council of Governments Board of Directors and Grant Application Review Committee will meet at 201 North Magnolia, Woodville Inn, Woodville, September 28, 1995, at 11:00 a.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9511255.

The Edwards Central Appraisal District Appraisal Review Board will meet at 408 Austin Street, County Annex Building, Rocksprings, September 12, 1995, at 10:00 a.m. Information may be obtained from Teresa Sweeten, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9511372.

The Elm Creek WSC Board met at 508 Avenue E, Moody, September 11, 1995, at 7:00 p.m. Information may be obtained from Debra Williams, 508 Avenue E, Moody, Texas 76557, (817) 853-3838. TRD-9511305.

The Erath County Appraisal District (Revised Agenda) Board of Directors will meet at 1390 Harbin Drive, Stephenville, September 12, 1995, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9511310.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, September 13, 1995, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. 920975, Houston, Texas 77292, (713) 957-5291. TRD-9511365.

The Heart of Texas Council of Governments Solid Waste Management Council will meet at 300 Franklin Avenue, September 13, 1995, at 9:00 a.m. Information may be obtained from Tiffanye Thomas, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9511302.

The High Plains Underground Water Conservation District Number One Board will meet at 2930 Avenue Q, Board Room, Lubbock, September 12, 1995, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Board Room, Lubbock, Texas 79405, (806) 762-0181. TRD-9511311.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, September 13, 1995, at 9:00 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9518. TRD-9511376.

The North Plains Ground Water Conservation District Number Two Board (Regular Meeting) will meet at 603 East First, Dumas, September 12, 1995, at 10:00 a.m. Information may be obtained from Richard

S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9511359.

The Nueces-Jim-Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors will meet at the NRCS Office, 548 South Highway 77, Suite B, Robstown, September 19, 1995, at 2:00 p.m. Information may be obtained from Denise Lawhon, 548 South Highway 77, Suite B, Robstown, Texas 78380. TRD-9511358.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Court House, Highway 180, Palo Pinto, September 13, 1995, at 1:30 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9511366.

The Permian Basin Quality Work Force Full Planning Committee will meet at 2910 LaForce Boulevard, Midland, September 19, 1995, at 11:30 a.m. Information may be obtained from Debi Mace, 2910 LaForce Boulevard, Midland, Texas 79711-0660, (915) 563-1061. TRD-9511333.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Decatur, September 12, 1995, at 8:00 p.m. Information may be obtained from Freddie Triplett, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9511349.

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**Meetings Filed September 7,
1995**

The Dallas Central Appraisal District Board of Directors (Regular Meeting) will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, September 13, 1995, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9511416.

The El Oso Water Supply Corporation Board of Directors will meet at FM 99, Karnes City, September 12, 1995, at 7:30 p.m. Information may be obtained from Judith Zimmermain, P.O. Box 309, Karnes City, Texas 76118, (210) 780-3539. TRD-9511419.

The Hale County Appraisal District Appraisal Review Board will meet at the Hale County Appraisal District, 302 West Eighth, Plainview, September 14, 1995, at 11:15 a.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79073, (806) 293-4226. TRD-9511435.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, September 21,

1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9511420.

The Nortex Regional Planning Commission General Membership Committee will meet at 4309 Jacksboro Highway, The Galaxy Center #2 North, Suite 200, Wichita Falls, September 21, 1995, at Noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76307-5144, (817) 322-5281, Fax: (817) 322-6743, TDD: 1-800-735-2989. TRD-9511436.

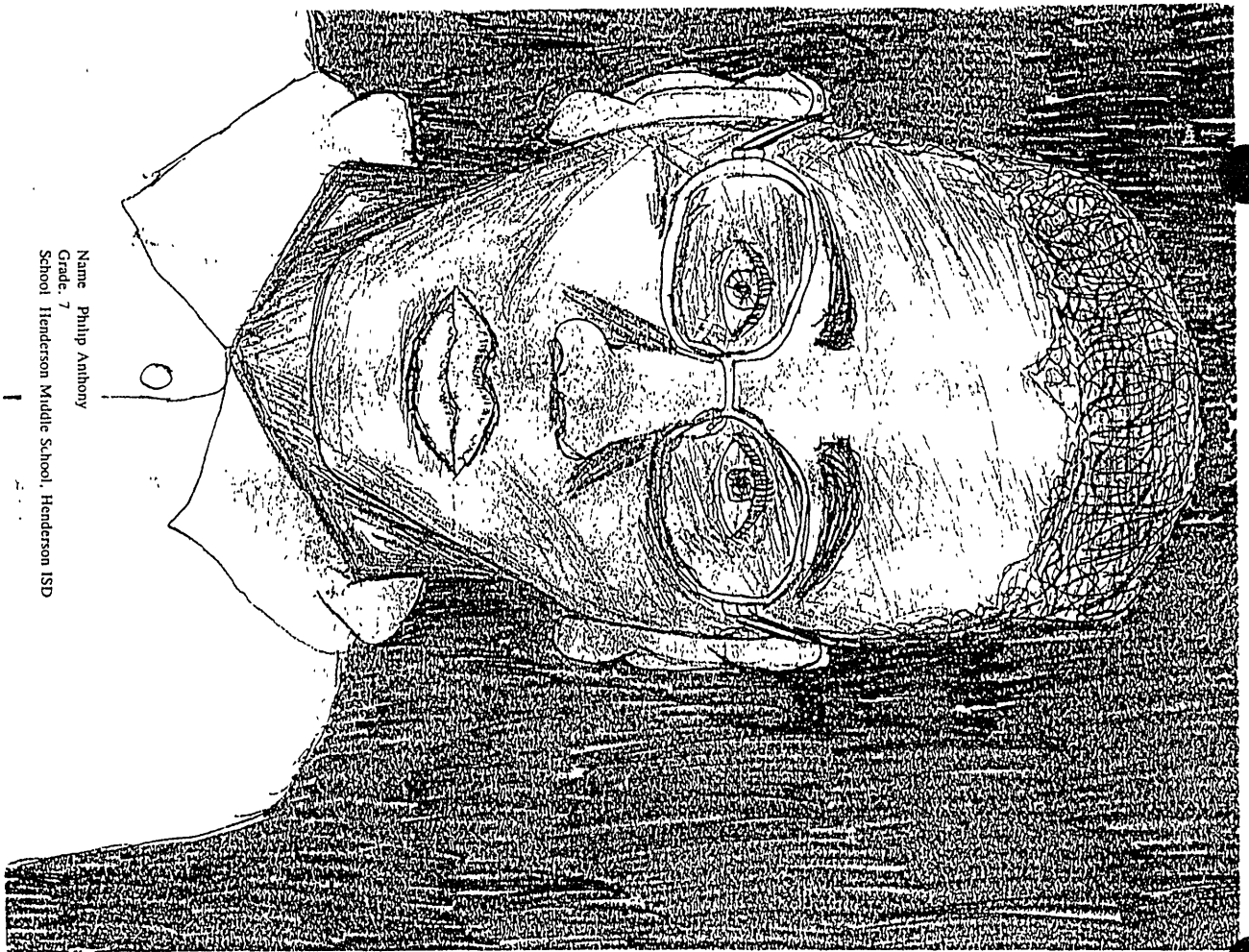
The Central Appraisal District of Rockwall County Board of Directors will meet at 106 North San Jacinto, Rockwall, September 12, 1995, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034. TRD-9511429.

The Sulphur-Cypress Soil and Water Conservation District #419 will meet at 1809 West Ferguson, Suite D, Mt. Pleasant, September 14, 1995, at 8:30 a.m. Information may be obtained from Beverly

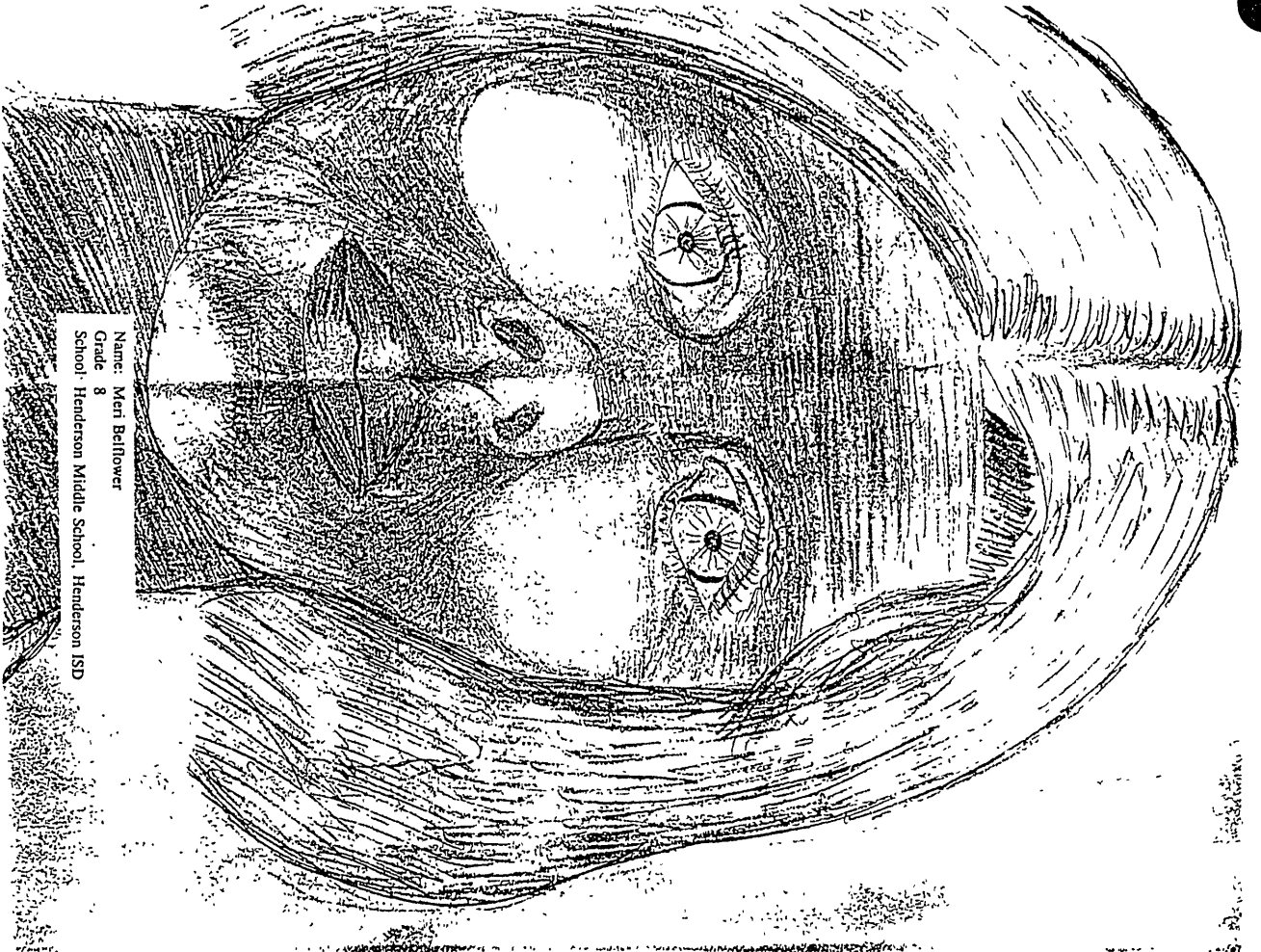
Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9511417.

The Taylor County Central Appraisal District Board of Directors will meet at 1534 South Treadaway, Abilene, September 13, 1995, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381, Ext. 24, Fax: (915) 677-7877. TRD-9511418.





Name Philip Anthony
Grade 7
School Henderson Middle School, Henderson ISD



Name: Matt Belflower
Grade 8
School: Henderson Middle School, Henderson ISD

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.

State Auditor's Office

Consultant Proposal Request

Notice of Invitation for Proposal. The State Auditor's Office, acting on behalf of the Legislative Audit Committee, invites offers of services from independent firms for the purposes of obtaining a comprehensive investment performance review of the Teacher Retirement System (System).

General Information. The System was established by amendment to the Texas Constitution in 1936 and enactment of statutes in 1937 to provide a retirement program for persons employed in public education in professional and business administration, supervision, and instruction. A general overview of the powers and duties of the System are set forth in the Texas Constitution, Article XVI, §67, and Texas Government Code, Title 8, Subtitle C. The System also administers proportional retirement benefits under Texas Government Code, Chapter 803, Title 8. The System has approximately 395 employees and has an annual budget of \$29.7 million. The System's responsibilities include the maintenance of an actuarially sound retirement system and the provision of health insurance services to retirees and active public school employees. To meet these responsibilities, the System must prudently manage its \$38.9 billion (market value) investment portfolio.

The retirement program administered by the System is a defined benefit plan. The plan provides members, after certain conditions are met, with life-long benefits which are determined by the member's length of service and salary level before retirement. At August 31, 1994, the System reported 593,065 active members, and a total of 132,577 annuitants were receiving monthly retirement benefits.

Description of Project. This review is intended to provide an independent and comprehensive evaluation of all aspects of the System's investment functions. Specific areas to be evaluated include the following:

Investment Policies and Operating Procedures

- Internal Investment Management
- External Investment/Consulting Services

Portfolio Management

- Asset Allocation
- Strategies
- Performance
- Risks
- Investment Costs

Reporting and Communication

Investment Performance and Accounting Systems

Delegation of Administrative Duties. The Legislative Audit Committee may delegate duties associated with the solicitation, evaluation, and selection of proposals and with the management of a resulting contract to the State Auditor's Office and/or an advisory group selected by the Committee, subject to such ratification or approval as the Committee determines to be necessary.

Proposal Instructions. Detailed specifications concerning this project will be made available in proposal preparation instructions, which may be obtained on or after September 12, 1995, by submitting a written request to: Teacher Retirement System Investment Performance Review, Legislative Audit Committee, in care of State Auditor's Office, P.O. Box 12067, Austin, Texas 78711-2067, Attention: Carol Smith.

In order to ensure that all offerors have the same information and instructions concerning the preparation of proposals, all communication prior to the closing date for receipt of proposals shall be in writing.

Closing Date for Receipt of Proposals. Written proposals offering to provide the requested services must be either hand-delivered to the State Auditor's Office at 206 East Ninth Street, 19th Floor, Austin, Texas, between the hours of 8:00 a.m. and 5:00 p.m., Monday-Friday, or sent by certified mail to the address specified previously. Proposals must be received no later than 5:00 p.m. on October 20, 1995, except that proposals postmarked on or before October 18, 1995, and received subsequent to the closing date will also be considered.

Selection Process. An advisory group designated by the Legislative Audit Committee will review proposals submitted by offerors. In evaluating proposals, the advisory group will consider: 1) the demonstrated competence, knowledge, and qualifications of the firm as a whole and of the professional staff who will work on the review; 2) the firm's technical expertise in analyzing the investment operations of public retirement systems; 3) the extent to which the firm's proposed services accomplish the purposes and specifications of this Consultant Proposal Request and the instructions; 4) the reasonableness of costs for the services proposed; 5) the extent of firm's prior and current business relationships with the System; and 6) when other considerations are equal, a firm whose principal place of business is within the State of Texas, or who will manage the engagement wholly from one of its offices within the State of Texas, will be given preference. Historically Underutilized Businesses are encouraged to submit or participate in the submission of proposals.

Project Timing and Cost. Contingent upon the negotiation of a contract with the offeror selected, the period of performance for the review is anticipated to be December 1, 1995-May 31, 1996. The firm selected to conduct the review will also be required to submit periodic progress reports as requested by the Legislative Audit Committee or its designee(s).

General Terms and Conditions. The Legislative Audit Committee or its designee(s) reserve the right to accept or reject any (or all) proposals submitted. The information contained in this Consultant Proposal Request is intended to serve only as a general description of the services desired. Additional terms and conditions relating to this Consultant Proposal Request will be provided in the proposal preparation instructions.

The responses hereto will be used as a basis for further negotiation of specific project details with offerors. Issuance of this Consultant Proposal Request creates no obligation to award a contract or to pay any costs incurred in the preparation of a proposal.

Issued in Austin, Texas, on September 5, 1995.

TRD-9511263 Lawrence F. Alwin, CPA
State Auditor
State Auditor's Office

Filed: September 6, 1995

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Texas Department of Banking
Notice of Hearing

The Banking Commissioner of Texas will conduct a public hearing pursuant to Texas Government Code, §2001.029(b), for the purpose of receiving comments on proposed 7 TAC §25.11, concerning record keeping requirements for permit holders selling trust funded contracts, published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5573). The hearing will be held on Monday, September 18, 1995, at 1:30 p.m. at the State Finance Commission Building, 2601 North Lamar Boulevard, Third Floor, in Austin, Texas. Oral presentations will be limited to a maximum of ten minutes each. More extensive comments should be submitted in writing. The Texas Department of Banking will fully consider all written and oral submissions concerning the proposed rules, whether submitted prior to or at the public hearing.

Additional information may be obtained from: Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511164 Everette D. Jobe
General Counsel
Texas Department of Banking

Filed: September 1, 1995

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The Banking Commissioner of Texas will conduct a public hearing pursuant to Texas Government Code, §2001.029(b), for the purpose of receiving comments on proposed 7 TAC §§25.51-25.59, concerning trust investment conversions, published in the August 8, 1995, issue

of the *Texas Register* (20 TexReg 5976.) The hearing will be held on Monday, September 18, 1995, at 1:30 p.m. at the State Finance Commission Building, 2601 North Lamar Boulevard, Third Floor, in Austin, Texas. Oral presentations will be limited to a maximum of ten minutes each. More extensive comments should be submitted in writing. The Texas Department of Banking will fully consider all written and oral submissions concerning the proposed rules, whether submitted prior to or at the public hearing.

Additional information may be obtained from: Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511166 Everette D. Jobe
General Counsel
Texas Department of Banking

Filed: September 1, 1995

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The Banking Commissioner of Texas will conduct a public hearing pursuant to Texas Government Code, §2001.029(b), for the purpose of receiving comments on proposed 7 TAC §25.25, concerning insurance conversions, published in the August 1, 1995, issue of the *Texas Register* (20 TexReg 5663). The hearing will be held on Monday, September 18, 1995 at 1:30 p.m. at the State Finance Commission Building, 2601 North Lamar Boulevard, Third Floor, in Austin, Texas. Oral presentations will be limited to a maximum of ten minutes each. More extensive comments should be submitted in writing. The Texas Department of Banking will fully consider all written and oral submissions concerning the proposed rules, whether submitted prior to or at the public hearing.

Additional information may be obtained from: Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511165 Everette D. Jobe
General Counsel
Texas Department of Banking

Filed: September 1, 1995

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Office of Consumer Credit
Commissioner
Notice of Rate Ceilings

(Due to an error by the *Texas Register* the Notice of Rate Ceilings was omitted from the September 8, 1995, issue of the *Texas Register*.)

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, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<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)	09/04/95-09/10/95	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	09/01/95-09/30/95	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/95-12/31/95	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	10/01/95-12/31/95	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	10/01/95-12/31/95	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	10/01/95-12/31/95	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	10/01/95-12/31/95	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	09/01/95-09/30/95	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.

[graphic]

Issued in Austin, Texas, on August 28, 1995.

TRD-9510980
 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioner

Filed: August 30, 1995

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Request for Interpretation of Title 79

Under provisions of Title 79, Article 2.02A, §10, Revised Statutes (Texas Civil Statutes, Article 5069-2.02A), the consumer credit commissioner may issue interpretations of Title 79, Revised Statutes (Texas Civil Statutes, Article 5069-1.01 *et seq.*). The consumer credit commissioner has received the following request for an interpretation.

Request Number 95-2. Request from Robert R. Wisner; O'Connor, Wisner & Craig P.C., inquiring as follows:

- (1) May a lender, under the authority of the Texas Credit Code, Chapters 1, 3, 4, 5, or 15, extend a loan if the borrower executes and records an invalid and unenforceable lien against the borrower's homestead property, which lien is waived and not taken by the lender?
- (2) If such a loan may be made under the authority of Chapters 3, 4, 5, or 15, then are there any additional limits on such a loan with respect to authorized charges or other matters which would not apply to a loan that is secured by a valid and enforceable lien?
- (3) For such loans subject to Chapters 1 or 15 may a lender include a "demand feature"?
- (4) In addition to a failure to make payments under the terms of the loan, may a lender provide that any of various events is a default under such a loan and is the holding affected by the relevant Chapter of the Texas Credit Code.

Interested parties may submit briefs and proposals pertaining to the issue under consideration to Leslie L. Pettijohn, Commissioner, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, until September 30, 1995.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511150
 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioners

Filed: September 1, 1995

**Interagency Council on Early
 Childhood Intervention
 Request for Proposal**

Description of Service. The Interagency Council on Early Childhood Intervention (ECI) announces a Request for Proposal (RFP) for funding early childhood services in Liberty, Montgomery, and Walker counties in Fiscal Year 1996. The scope of services includes a comprehensive array of services to approximately 19 families. All applicants must comply with all program requirements under Texas Civil Statutes, Human Resources Code, Chapter 73, 25 TAC §§621.21-621.48 and §§621.121-621.140.

Closing Date. All RFP's to be considered for funding must be received by ECI by 5:00 p.m. on October 20, 1995, or be postmarked by October 19, 1995. ECI reserves the right to reject all RFP's if necessary.

Terms and Amount. The contract will begin December 1, 1995, and end on August 31, 1996, and may not exceed \$339,980.

Selection Criteria. New grant applications will be reviewed by an interagency team and consumer representatives. Proposals will be evaluated on the following criteria: The extent to which the program will meet identified needs in the targeted counties; the cost of initiating a program; the availability of other funding sources; and the assurance of quality services.

Contact Person. The RFP is available to all interested providers upon written request to Roland Greer, Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756. A copy may also be obtained by calling (512) 502-4930, or by visiting the ECI office at 4412 Spicewood Springs Road, Building 600, Austin, Texas. Questions should be directed to Roland Greer at (512) 502-4930.

Issued in Austin, Texas, on September 6, 1995.

TRD-9511256
 Donna Samuelson
 Deputy Executive Director
 Interagency Council on Early Childhood Intervention

Filed: September 6, 1995

Employees Retirement System of Texas Request for Proposals

The Employees Retirement System of Texas (ERS) is soliciting proposals from qualified providers of Master Trust Custody Services.

The ERS is anticipating entering into an agreement for Master Trust Custody and other services for its investments, valued at approximately \$11 billion. The account will be established as a custodian trust account, segregated from all other funds, held in trust by the Custodian.

The ERS will consider proposals from banks or other entities that currently provide Master Trust Custody Service for at least one state level public pension fund and offer securities lending, global custody, and on-line reporting services. The ERS will select the provider that demonstrates the highest degree of competence to perform the services for a reasonable price.

Questions concerning the ERS and the Request For Proposals shall be directed to Nancy G. Goerdel, Deputy Director for Investments, Employees Retirement System of Texas, 1801 Brazos, Austin, Texas 78701-1425, (512) 867-3414, fax (512) 867-3377.

The ERS will not consider a proposal unless five copies are received no later than 3:00 p.m., September 29, 1995, at the Employees Retirement System of Texas in Austin (refer to Section C). Bids postmarked on or before the due date but received after the due date will not be accepted. The envelope containing the proposal will be clearly marked "MASTER TRUST CUSTODIAN PROPOSAL". Submit only one copy of report samples and manuals included as Exhibits.

The ERS reserves the right to accept or reject any or all proposals submitted. The ERS is under no legal requirement to execute a resulting contract on the basis of this advertisement. The ERS intends to use responses as a basis for further negotiations of specific plan details. The ERS will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria.

Issued in Austin, Texas, on September 6, 1995.

TRD-9511260 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: September 6, 1995

Office of the Governor, Budget and Planning

Request for Proposals for the Fiscal Year 1997 State of Texas Federal and State Cost Allocation Plans

Pursuant to the Government Code, Chapter 2254, the Governor's Office of Budget and Planning invites professionals with documented expertise in the field of indirect cost recovery and cost allocation plans for governmental units to submit proposals to prepare and negotiate with the federal government, under the provisions of OMB Circular A-87, the state of Texas' consolidated statewide cost allocation plan for the fiscal year ending August 31, 1997.

Proposers will be expected to develop a cost allocation plan that enables eligible state agencies to recover the maximum indirect costs possible from federal programs. The contractor selected will be responsible for all aspects of the plan, including obtaining raw cost and statistical data, identifying allocable costs, preparing and submitting the e plan, and negotiating the final plan with the federal government for state agency use during the state fiscal year beginning September 1, 1996. Proposals must include a description of the system to be used to extract allowable costs from central government agencies and for allocating such costs. Contractor may be required to prepare alternative allocation tables using different allocation bases to demonstrate maximum feasible recovery options. As a component of the cost allocation plan, the contractor selected must also identify the costs of providing statewide support services to each state agency. This component must identify state agencies that use services from other state agencies (for example, auditing, accounting, centralized purchasing, and legal services) in carrying out their programs and the type and dollar amount of services used. The contractor selected will be responsible for all aspects of this component, including obtaining raw cost and statistical data and identifying allocable costs. Proposals must include a description of the system to be used to extract allowable costs from central government agencies and for allocating such costs. A complete set of the work papers used to prepare the plan must be kept and provided to the Governor's Office upon request. The contractor is required to provide 25 copies of the summary of fixed costs related to federal cost allocations from the completed plan and 25 copies of the summary of costs related to state cost allocations to other state agencies from the completed plan. The Governor's Office of Budget and Planning will evaluate each proposal and reserves the right to reject any and all proposals.

The following evaluation criteria will be used: the extent to which the proposal covers all aspects of the plan; demonstrated expertise of proposer to maximize indirect costs; demonstrated willingness of proposer to provide follow-up assistance without charge; proposer's ability to meet tight deadlines; qualifications of assigned staff; quality of proposal content (e.g., clarity, completeness); and quoted price. The state assumes no responsibility for expenses incurred in preparing responses to this solicitation. A copy of the Fiscal Year 1995 plan may be obtained by contacting Tom Adams, Governor's Office of Budget and Planning, Room 441 State Insurance Building, 1100 San Jacinto, P.O. Box 12428, Austin, Texas 78711, (512) 463-1771. All proposals must be received at the above address no later than 5:00 p.m., October 2, 1995.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511153 Pete Wassdorf
Deputy General Counsel
Office of the Governor, Budget and
Planning

Filed: September 1, 1995

Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading

labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location

listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Dallas	Texas Oncology, P.A. - Sammons Cancer Center	L04878	Dallas	0	08/18/95
Dallas	ATC Environmental Incorporated	L04891	Dallas	0	08/21/95
Houston	Imaging Institute of Texas, Inc.	L04893	Houston	0	08/24/95
Hurst	Bell Helicopter Textron, Inc.	L04901	Fort Worth	0	08/16/95
Lubbock	Joe Arrington Cancer Research and Treatment Center	L04881	Lubbock	0	08/28/95
McAllen	South Texas Cancer Centers-McAllen	L04880	McAllen	0	08/21/95
Port Arthur	Clark Refining & Marketing, Inc.	L04871	Port Arthur	0	08/18/95
Refugio	Refugio County Memorial Hospital	L04858	Refugio	0	08/17/95

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Abilene	Abilene Regional Medical Center	L02126	Abilene	10	08/15/95
Abilene	ABCO NDE	L03153	Abilene	11	08/30/95
Amarillo	Syncor International Corporation	L03398	Amarillo	18	08/17/95
Amarillo	Panhandle Cardiovascular Clinics, P.A.	L04697	Amarillo	4	08/25/95
Andrews	Permian General Hospital	L03158	Andrews	9	08/23/95
Arlington	Metroplex Hematology Oncology Associates	L03211	Arlington	38	08/30/95
Austin	St. David's Community Hospital	L00740	Austin	61	08/22/95
Austin	Shivers Cancer Center	L01761	Austin	33	08/22/95
Austin	Seton Medical Center	L02896	Austin	37	08/24/95
Bay City	Hoechst Celanese Chemical Group, Inc.	L00246	Bay City	31	08/15/95
Baytown	Exxon Company, U.S.A.	L01134	Baytown	47	08/23/95
Borger	Agrium U.S. Inc.	L02772	Borger	12	08/15/95
Bryan	Saint Joseph Regional Health Center	L00573	Bryan	40	08/16/95
Center	Center Hospital, Inc.	L03608	Center	12	08/28/95
Cheek	Metalforms, Inc.	L02261	Beaumont	23	08/25/95
Dallas	Texas Instruments, Inc.	L00946	Dallas	70	08/17/95
Dallas	Baylor University Medical Center	L01290	Dallas	32	08/18/95
Dallas	Doctors Hospitals	L01366	Dallas	34	08/25/95
Dallas	Texas Instruments Incorporated	L04096	Dallas	10	08/17/95
Dallas	North Texas Heart Center, P.A.	L04608	Dallas	6	08/30/95

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Dallas	The Dallas Heart Group	L04694	Dallas	7	08/22/95
Dallas	Highland Park Medical Imaging	L04847	Dallas	1	08/15/95
Dallas	Kaiser Foundation Health Plan of Texas	L03755	Dallas	23	08/17/95
El Campo	Wharton Hospital Corporation	L02664	El Campo	11	08/28/95
Fort Worth	Texas Christian University	L01096	Fort Worth	28	08/24/95
Fort Stockton	The University of Texas System	L04648	Midland	3	08/17/95
Hallsville	Southwestern Electric Power Company	L03297	Hallsville	11	08/17/95
Houston	Saint Luke's Episcopal Hospital & Heart Institute	L00581	Houston	54	08/16/95
Houston	Rosewood Medical Center	L01239	Houston	42	08/25/95
Houston	Twelve Oaks Hospital	L02432	Houston	20	08/25/95
Houston	Phoenix Non-Destructive Testing Co., Inc.	L04454	Channelview	21	08/15/95
Houston	Fannin Imaging Center	L04609	Houston	2	08/17/95
Houston	Texas Children's Hospital	L04612	Houston	6	08/15/95
Longview	Texas Eastman Division	L00301	Longview	78	08/28/95
McAllen	Rio Grande Regional Hospital	L03288	McAllen	27	08/23/95
Mesquite	Medical Center of Mesquite	L02428	Mesquite	22	08/25/95
Mont Belvieu	Exxon Chemical Americas	L03119	Mont Belvieu	19	08/22/95
Navasota	Navasota Regional Hospital	L03324	Navasota	4	08/22/95
Nederland	Anatec, Inc.	L04865	Nederland	4	08/15/95
Nederland	Anatec, Inc.	L04865	Nederland	5	08/22/95
Odessa	University of Texas of the Permian Basin	L02695	Odessa	8	08/24/95
Orange	E.I. Dupont de Nemours & Company	L00005	Orange	60	08/15/95
Orange	Inland Container Corporation	L01029	Orange	41	08/17/95
Orange	Ausimont Inc.	L03968	Orange	7	08/24/95
Pasadena	Hoechst Celanese Chemical Company	L01130	Houston	43	08/23/95
San Antonio	South Texas Radiology Group	L00325	San Antonio	74	08/28/95
San Antonio	Southwest Texas Methodist Hospital	L00594	San Antonio	116	08/16/95
San Antonio	Southwest Texas Methodist Hospital	L00594	San Antonio	117	08/25/95
San Antonio	MedCenter Imaging	L04098	San Antonio	15	08/24/95
Seadrift	Union Carbide Chemicals & Plastics Company, Inc.	L00051	Port Lavaca	60	08/28/95
Sherman	Johnson & Johnson Medical Inc.	L01870	Sherman	16	08/22/95
Stephenville	Harris Methodist Erath County	L03097	Stephenville	15	08/23/95
Sugar Land	Fort Bend Imaging, Inc.	L04459	Sugar Land	6	08/17/95
Temple	Specialty Pharmacy Services, Inc.	L04883	Temple	1	08/18/95
Throughout Texas	Professional Service Industries, Inc.	L00203	Longview	80	08/17/95
Throughout Texas	Professional Service Industries, Inc.	L00203	Longview	81	08/23/95
Throughout Texas	Huntingdon Engineering and Environmental, Inc.	L00299	Houston	93	08/28/95
Throughout Texas	E. I. Du Pont de Nemours & Company	L00314	La Porte	65	08/17/95
Throughout Texas	Halliburton Energy Services	L00442	Houston	80	08/21/95
Throughout Texas	The Methodist Hospital	L00457	Houston	77	08/29/95
Throughout Texas	Schlumberger Technology Corporation	L00764	Sugar Land	69	08/21/95
Throughout Texas	Longview Inspection	L01774	Houston	95	08/28/95
Throughout Texas	CBI NA-COM, Inc.	L01902	Houston	33	08/22/95
Throughout Texas	Halliburton Energy Services	L02113	Houston	81	08/24/95
Throughout Texas	Bix Testing Laboratories	L02143	Baytown	67	08/16/95
Throughout Texas	Sivalls, Inc.	L02298	Odessa	24	08/23/95
Throughout Texas	METCO	L03018	Houston	41	08/21/95
Throughout Texas	METCO	L03018	Houston	42	08/17/95
Throughout Texas	Fugro-McClelland (Southwest), Inc.	L03461	Dallas	16	08/28/95

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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Throughout Texas	X-Cel Group, Inc.	L03548	Odessa	37	08/15/95
Throughout Texas	Biotrax International	L03574	San Antonio	25	08/28/95
Throughout Texas	ProTechnics II, Inc.	L03835	Houston	25	08/30/95
Throughout Texas	ATL Laboratories, Inc.	L03924	Arlington	9	08/28/95
Throughout Texas	Qualitex Industrial X-Ray, Inc.	L04079	Odessa	11	08/17/95
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	45	08/22/95
Throughout Texas	Geoscience Engineering & Testing Inc.	L04157	Houston	7	08/28/95
Throughout Texas	Reed Engineering Group	L04343	Dallas	4	08/17/95
Throughout Texas	B.P.B. Instruments, Inc.	L04405	Midland	3	08/25/95
Throughout Texas	SGS Industrial Services	L04460	Deer Park	22	08/29/95
Throughout Texas	Industrial NDT Company, Inc.	L04570	Deer Park	19	08/30/95
Throughout Texas	ATSER Corporation	L04741	Houston	4	08/25/95
Throughout Texas	DMG Equipment Company	L04856	Conroe	1	08/23/95
Vernon	West Texas Utilities Company	L03481	Vernon	11	08/29/95
Waco	Baylor University	L01136	Waco	19	08/28/95
Wadsworth	Houston Lighting and Power Company	L04222	Wadsworth	7	08/29/95

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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El Paso	Providence Memorial Hospital	L02353	El Paso	45	08/17/95

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
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Dallas	O. Theodore New, D.P.M.	L03542	Dallas	4	08/17/95

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend-ment #	Date of Action
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Throughout Texas	Professional Service Industries, Inc.	L00931	LOMBARD, IL	105	08/25/95

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on September 1, 1995.

TRD-9511203 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: September 5, 1995

◆ ◆ ◆
**Request for Proposals—Tuberculosis
Innovative Demonstration Project
Grants Program**

Purpose. The Texas Department of Health (department), Tuberculosis Elimination Division (TBED) is requesting proposals for the development of innovative demonstration projects that will lead to a decrease in tuberculosis morbidity.

Description. The department is seeking contractors to develop innovative approaches to control and eliminate tuberculosis. The goals are to increase public understanding and involvement in the control and elimination of tuberculosis; reduce barriers that prevent the control and elimina-

tion of tuberculosis; develop and support tuberculosis control campaigns; complement existing tuberculosis programs and activities in a community to prevent unnecessary duplication of services; collaborate with local health departments and support public/private partnership efforts on a grassroots level to control and eliminate tuberculosis. The department will use the competitive procurement process to select up to eight contractors to develop collaborative relationships with community organizations and local health departments in an effort to address the problems associated with tuberculosis in the state.

Eligible Applicants. Eligible offerors include regional health departments, local health departments or non-profit community agencies/organizations. Individuals are not eligible to apply.

Limitations. Funding for the selected proposal will depend upon available state appropriations. The department reserves the right to reject any and all offers received in response to the RFP and cancel the RFP if it is deemed in the best interest of the department.

Term. The tentative effective date for the contract is November 1, 1995. Renewal of the competitively procured contract usually begins at the beginning of each state fiscal year (September 1). At its option, the department may negotiate the renewal or extension of any contract(s) on a noncompetitive basis for a total contract duration not to exceed 12 months.

Deadlines. All proposals to be considered for funding through this RFP must be received by 5:00 p.m. on Monday, October 2, 1995, at the Texas Department of Health, Tuberculosis Elimination Division, 1100 West 49th Street, Austin, Texas 78756 (Attention: Charles E. Wallace, M.P.H.). Proposals received after this deadline will not be accepted. Faxes will not be accepted.

Evaluation and Selection. An internal evaluation selection panel designated by the department will rank and score the proposals. The evaluation of this RFP will be based upon the following criteria project narrative's logic, innovative approaches and practicability to reducing tuberculosis transmissions (45 points); proposal's organization and clarity (15 points); organizations' experience and commitment to tuberculosis control and evaluation (15 points); budget's practicality and justification (10 points); evaluation plan's ability to measure the validity of the objectives (10 points) and long-term project funding goals (5 points).

Contact Person. To obtain a complete copy of the RFP, please contact Paula Watrous, Texas Department of Health, Tuberculosis Elimination Division, 1100 West 49th Street, Austin Texas 78756, (512) 458-7447.

Issued in Austin, Texas, on September 6, 1995.

TRD-9511258 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: September 6, 1995

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**Health and Human Services
Commission**

Public Notices

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical

Assistance Plan by Transmittal Number 94-35, Amendment Number 464.

The amendment implements the Vaccines for Children Program using the preprint pages from Program Memorandum 94-3. The amendment is effective October 1, 1994.

If additional information is needed, please contact Janet Kres, Texas Department of Health, at (512) 458-7111, extension 2863.

Issued in Austin, Texas, on August 30, 1995

TRD-9510982 Michael D. McKinney, M.D.
Commissioner
Health and Human Services Commission

Filed: August 30, 1995



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 95-22, Amendment Number 487.

The amendment revises the reimbursement methodology for primary home care services by specifying that the reimbursement will be based on cost report data rather than on modeled analysis. The amendment is effective May 1, 1995.

If additional information is needed, please contact Nancy Kimble, Texas Department of Human Services, at (512) 450-3496.

Issued in Austin, Texas, on August 30, 1995.

TRD-9510981 Michael D. McKinney, M.D.
Commissioner
Health and Human Services Commission

Filed: August 30, 1995



Texas Department of Insurance Notice of Applications by Small Employer Carriers to be Risk- Assuming Carriers

Notice is given to the public of the applications of the listed small employer carriers to be risk-assuming carriers under Texas Insurance Code, Article 26.52. A small employer carrier is defined by the Texas Insurance Code, Chapter 26, as a health insurance carrier that offers, delivers or issues for delivery, or renews small employer health benefit plans subject to the chapter. A risk-assuming carrier is defined by the Texas Insurance Code, Chapter 26, as a small employer carrier that elects not to participate in the Texas Health Reinsurance System. The following small employer carriers have applied to be risk-assuming carriers:

Bankers United Life Assurance Company; Benefit Life Insurance Company; Life Investors Insurance Company of America; Monumental Life Insurance Company.

The applications are subject to public inspection at the offices of the Texas Department of Insurance, Financial Monitoring Unit, 333 Guadalupe, Hobby Tower 3, Third Floor, Austin, Texas.

If you wish to comment on these applications to be risk-assuming carriers, you must submit your written comments within 60 days after publication of this notice in the

Texas Register to Alicia M. Fechtel, Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-91204. An additional copy of the comments must be submitted to Mike Boerner, Managing Actuary, Actuarial Division of the Financial Program, Mail Code 304-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Upon consideration of each application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to approve the application to be a risk-assuming carrier.

Issued in Austin, Texas, September 6, 1995.

TRD-9511295 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: September 6, 1995



Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of Systemed Pharmacy, Inc., a foreign third party administrator. The home office is Independence, Ohio.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, September 6, 1995.

TRD-9511294 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: September 6, 1995



Texas Natural Resource Conservation Commission

Application(s) for Authorization to Operate a Concentrated Animal Feeding Operation in Accordance with TNRCC Subchapter K Rules—August 28, 1995-September 1, 1995

Persons wishing to comment on these applications should submit their comments in writing to the Office of the Chief Clerk, TNRCC, P.O. Box 13087 MC-105, Austin, Texas 78711. Comments must be received no later than 30 days from the date of newspaper publication of the notice of application. In order for comments to qualify for consideration by the Executive Director, they must: be sworn and in writing; describe in detail how the application, if approved, would affect a person, property, or other legally justifiable interest of the commenter; describe in detail how the application lacks technical merit, i.e., fails to meet the applicable requirements set forth in the rules of Subchapter K and therefore issuance of the permit-by-rule may result in detrimental impacts to ground water quality underlying the related concentrated animal feeding operation and/or detrimental impacts to surface water quality within one mile of the facility or present evidence demonstrating that the history of compliance by the applicant has resulted in detrimental impacts to such ground or surface

water quality within these geographic limits; and describe the specific action the commenter wishes the TNRC to take in response to the application.

Listed are the name and address of the applicant, the location of the facility, type of facility, authorization number; type of application--new authorization, amendment, or renewal.

Texas Farm, Inc., 9 Southwest 2nd Avenue, Perryton, Texas 79070; new swine feeding facility; to be located on the north side of State Highway 281 approximately eight miles west of the intersection of State Highway 281 and U. S. Highway 83, in Ochiltree County, Texas, Proposed Authorization Number 03860; New.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511154 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

Applications for Sludge Registrations

Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of August 28 through September 1, 1995

TERESA GAIL ALLUMS; from the City of Crockett to Highway 7 East, approximately 8 miles to an unnamed county road, approximately 1 mile on the left side of the road in Houston County, Texas; new; 710716

BENEFICIAL LAND MANAGEMENT, LLC; adjacent to the east side of FM Road 1625, approximately 2,000 feet south of the intersection of FM Road 1327 and FM Road 1625 and the City of Creedmoor, Travis County, Texas; new; 710721

CITY OF CAMERON; approximately 5.5 miles west of the City of Cameron city limits, with the south boundary line approximately 600 feet from State Highway 36 and the east boundary line adjacent to County Road 202 in Milam County, Texas; new; 710720

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711. The request should contain: the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511159

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

Applications for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of August 28th thru September 1, 1995.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application--new permit, amendment, or renewal.

CITY OF AMARILLO; the wastewater treatment facilities are approximately 10 miles north-northeast of the intersection of Interstate Highway 40 and U.S. Highway 87, approximately 1.5 miles east of U.S. Highway 87 in Potter County, Texas; renewal; 10392-01.

ACME BRICK COMPANY; the Bennett Clay Mine is approximately three miles north of Interstate Highway 20 and approximately 2 1/2 miles southwest of the City of Millsap, Parker County, Texas; new; 03836.

ACME BRICK COMPANY; the Allison Clay Pit Mine; the pit mine is approximately 1/2 mile west of FM Road 2181 on Hickory Creek Road in the City of Denton, Denton County, Texas; new; 03837.

BRADECO, INC.; the dairy is on the north side of State Highway 67. The dairy is approximately 3.5 miles southeast of the intersection of State Highway 67 and FM Road 2481 in Erath County, Texas; amendment; 03269.

CITY OF CAMPBELL; the wastewater treatment facilities are approximately one mile southwest of the City of Campbell, and approximately 3/4 of a mile southwest of the northern intersection of State Highway 50 and FM Road 499 and approximately 1,000 feet south of State Highway 50; adjacent to the northwest bank of Timber Creek and 3/4 mile north of Interstate Highway 30 in Hunt County, Texas; new; 13791-01.

CAMPBELL SOUP COMPANY; a canning facility that produces various soups and other specialty food products and manufactures steel containers; the plant site is at 500 North Loop 286, which is approximately 1/4 mile west of the intersection of U.S. Loop Highway 286 and U.S. Highway 271 and in the northern portion of the City of Paris, Lamar County, Texas; renewal; 01012.

COASTAL TRANSPORT CO., INC.; a truck maintenance terminal; the plant site is at 8613 Wallisville Road in the City of Houston, Harris County, Texas; renewal; 01706.

CONROE INDEPENDENT SCHOOL DISTRICT; the San Jacinto Elementary School Wastewater Treatment Plant is approximately 2,000 feet northwest of the intersection of FM Road 1314 and Bennette Estates Road in Montgomery County, Texas; amendment; 12205-01.

C. L. HALL; the dairy location is on the south side of FM Road 514, approximately one mile southwest of the intersection of FM Road 514 and FM Road 275 in Rains County, Texas; amendment; 03647.

CITY OF HOUSTON; the Almeda-Sims Wastewater Treatment Plant is approximately 2000 feet east of State Highway 288 at 12319 1/2 Almeda Road in the southwest quadrant of the City of Houston in Harris County, Texas; the Almeda-Sims Wet Weather Facility is approximately 2,000 feet east of State Highway 288 at 12319 1/2 Almeda Road in the southwest quadrant of the City of Houston, 1,200 feet southwest of the Almeda-Sims Wastewater Treatment Facility in Harris County, Texas; amendment; 10495-03.

JACKSON COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER 1; the wastewater treatment facilities are at the east end of Elm Street and approximately 3,000 feet southwest of the intersection of FM Road 616 and FM Road 1593 in the eastern section of Lolita in Jackson County, Texas; renewal; 10911-01.

MARKHAM MUNICIPAL UTILITY DISTRICT; the Markham MUD Wastewater Treatment Facilities; the facilities are approximately 500 feet southwest of the intersection of FM Roads 1468 and 2431 in Matagorda County, Texas; renewal; 10580-01.

PHILLIPS PETROLEUM COMPANY; the Sweeny Refinery and Petrochemical Complex and San Bernard Terminal; the plant site is approximately 3.5 miles northwest of the City of Sweeny and southwest of the intersection of State Highway 35 and FM Road 524, and the San Bernard Terminal is located on an extension of Avenue A about 1.5 miles northeast of the City of Sweeny, Brazoria County, Texas; amendment; 00721.

SAN JACINTO RIVER AUTHORITY; the Woodlands Wastewater Treatment Plant Number 1 is north of Sawdust Road, approximately 2 miles west of I.H. 45 and 12 miles south of the City of Conroe in Montgomery County, Texas; amendment; 11401-01.

CITY OF SEABROOK; the Seabrook Wastewater Treatment Facilities; the facilities are adjacent to the intersec-

tion of Second Street and Todville Street in the City of Seabrook in Harris County, Texas; renewal; 10671-01.

SOUTHWESTERN WATER CORPORATION; the wastewater treatment facilities and the disposal site are approximately 6.5 miles northwest of the intersection of FM Roads 1431 and 2243 and 2.5 miles west of the intersection of FM Road 2243 and Round Mountain Road in Travis County, Texas; amendment; 13337-01.

UNITED STATES DEPARTMENT OF THE INTERIOR, US Bureau of Mines, Helium Field Operations; the Amarillo Helium Plant; the plant is one mile west of the City of Amarillo adjacent to U.S. Highway 66 at its intersection with Helium Road, Potter County, Texas; renewal; 02234.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511158

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

◆ ◆ ◆ Enforcement Orders

An agreed enforcement order was entered regarding **NORTHWESTERN STEEL AND WIRE COMPANY**, Docket Number 95-1133-IWD-E (Permit Number 03272) on August 29, 1995, assessing \$11,400 in administrative penalties with \$1,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Roxanne Cook, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4496.

An agreed enforcement order was entered regarding **TEXAS BOLT COMPANY**, Docket Number 95-1139-ISW-E (SOLID WASTE REGISTRATION Number 30291) on August 29, 1995, assessing \$87,440 in administrative penalties with \$57,440 deferred.

Information concerning any aspect of this order may be obtained by contacting Laura Ray, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 8711-3087, (512) 239-0674.

An agreed enforcement order was entered regarding **TEXLINE CITY OF**, Docket Number 95-0399-MWD-E (Permit Number 11029-01) on August 29, 1995, assessing \$4,080 in administrative penalties with \$1,020 deferred.

Information concerning any aspect of this order may be obtained by contacting Brian Lehmkuhle, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4482.

An agreed enforcement order was entered regarding **WEST CEDAR CREEK MUD**, Docket Number 95-1156-MWD-E (Permit Number 11839-01) on August 29, 1995, assessing \$3,600 in administrative penalties with \$3,600 deferred.

Information concerning any aspect of this order may be obtained by contacting Mary E. Smith, Enforcement Coor-

director, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4484.

An agreed enforcement order was entered regarding FANNON GARRETT, Docket Number 95-1235-MSW-E (Municipal Solid Waste Unauthorized Site Number MSW-35223) on August 29, 1995, assessing \$960 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Philip A. Spry, P.E., Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6794

An agreed enforcement order was entered regarding JIM WELLS COUNTY, Docket Number 95-1234-MSW-E (Municipal Solid Waste Unauthorized Site Number MSW-33912) on August 29, 1995, assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carol Piza, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, telephone number (512) 239-6729.

An agreed enforcement order was entered regarding NATIONAL MEDICAL WASTE OF TEXAS INC, Docket Number 94-0155-MSW-E (Permit Number MSW-1919) on August 23, 1995, assessing \$256,000 in administrative penalties with the entire amount deferred.

Information concerning any aspect of this order may be obtained by contacting Geoff Petrov, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0579.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511156 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

Extension of Deadline for Written Comments

The Texas Natural Resource Conservation Commission (TNRCC) has extended the deadline for receipt of written comments for the proposed new 30 TAC §§294.30-294.32, concerning Underground Water Management Area, Subchapter D. The new sections were published in the August 4, 1995, issue of the *Texas Register* (20 TexReg 5854). The deadline for receipt of written comments to the proposed changes was originally published as 30 days after the date of publication, but has been extended to 5:00 p.m., October 23, 1995.

For further information concerning this proposal please contact Steve Musick, Water Planning and Assessment Division at (512) 239-4514. Written comments on the proposal should mention Rule Log Number 95128-294-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of

Policy and Regulatory Development, MC-201, Post Office Box 13087, Austin, Texas 78711-3087, (512) 239-4640.

Issued in Austin, Texas, on September 6, 1995.

TRD-9511244 Lydia Gonzalez-Gromatzky
Acting Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: September 5, 1995

Notice of Application--For The Week Ending September 1, 1995

APPLICATION BY AMERICAN WASTEWATER, LTD., Proposed Permit Amendment Number MSW2234-A; authorizing an amendment to their existing municipal solid waste facility permit. The proposed amendment authorizes the addition of grit trap wastes, septage, landfill leachate, certain water and wastewater sludges, storage tank liquids, commercial food processing and transportation wastes, non-hazardous municipal wastes, Class I and Class II non-hazardous industrial waste and an increase in capacity to allow daily treatment of 200,000 gallons of wastes. The facility is located on a 6.65 acre site at 250 Gellhorn in the City of Houston, Harris County, Texas

The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of this notice. If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the TNRCC, Chief Clerk's Office, P.O. Box 13087, Mail Code 105, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300

Issued in Austin, Texas, on September 1, 1995.

TRD-9511161 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

**Notice of Opportunity to Comment on
Permitting Actions—For The Week
Ending September 1, 1995**

The following applications are subject to a Commission resolution adopted August 30, 1995, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application—new permit, amendment, or renewal.

Consideration of the Application of Teaswood, L.L.C. and League Line Utilities, L.L.C. to Purchase Facilities and Transfer Water CCN Number 12005 from Home Savings Association in Montgomery County, Texas (Application # 30863-S, Albert Holck).

Consideration of the Application of Teaswood, L.L.C. and League Line Utilities, L.L.C. to Purchase Facilities and Transfer Sewer CCN Number 20657 from Home Savings Association in Montgomery County, Texas. (Application #30864-S, Albert Holck)

APPLICATION NUMBER 23-854D BY OLMITO WATER SUPPLY CORPORATION FOR AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NUMBER 23-854D, AS AMENDED, PURSUANT TO TWC §11.122. Applicant seeks to amend Certificate Number 23-854, as amended, to sever 150 acre-feet of Class "A" water rights from Certificate Number 23-809 and to change ownership, point of diversion, purpose and place of use authorized for these water rights and to combine them with water rights owned by applicant under Certificate

Number 23-854, Rio Grande, Rio Grande Basin, Cameron County, Texas (Renee Tuggle).

Issued in Austin, Texas, on September 1, 1995.

TRD-9511157

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

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**Notice of Receipt of Application and
Declaration of Administrative
Completeness For Municipal Solid
Waste Management Facility—For The
Week Ending September 1, 1995**

NOTICE OF APPLICATION BY BMFS, INC (Spring Cypress Landfill), Proposed Permit Number MSW2249, authorizing a Type IV (Landfill) municipal solid waste management facility. The site covers approximately 53 acres of land and will daily receive approximately 2,000 cubic yards of municipal solid waste. The proposed facility is located at the northwest corner of the intersection of Spring Cypress Road and Valka Road, approximately 2,500 feet west of the intersection of Spring Cypress Road and Stuebner Airline Road, in the city of Houston, Harris County, Texas.

The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication. If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300

Issued in Austin, Texas, on September 1, 1995.

TRD-9511160

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

Provisionally-Issued Temporary Permits to Appropriate State Water

The following permits listed were issued during the period of December 5-9, 1994

Application Number TA-7526 by R. Lacy, Inc. for diversion of one acre-foot in a 6-month period for mining use purposes. Water may be diverted from the stream crossing south of FM 2517, located approximately ten miles southeast of Carthage, Panola County, Texas, Sabine River Basin.

Application Number TA-7527 by Dean Word Company for diversion of one acre-foot in a 1-year period for industrial use. Water may be diverted from the stream crossing of CR 146, located approximately four miles northeast of Bastrop, Bastrop, County, Texas, Colorado River Basin.

Application Number TA-7528 by Pawnee Lease Service, Inc. for diversion of three acre-feet in a 1-year period for industrial use. Water may be diverted from the stream crossing of FM 1042, located approximately 11.5 miles northwest of George West, Live Oak County, Texas, Nueces River Basin. The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in Section 295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, (512) 239-3300.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511155 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: September 1, 1995

Railroad Commission of Texas

Notice of Department of Labor Advisory Committee Meeting

The Railroad Commission of Texas will hold a meeting of the Department of Labor Defense Conversion Adjustment Grant Advisory Committee on September 13, 1995, at

Tarrant County Junior College, Automotive Building, Room 108, 5301 Campus Drive, Fort Worth, Texas, from 10:00 a.m. to 3:00 p.m. to consider the following matters:

10:00 a.m.—Call to order

1. Introduction of members
2. Purpose of advisory committee
3. Election of chair
4. Program background and description of goals (DACUM meeting December 1994)
5. Program status/accomplishments/barriers
 - a. Student recruiting
 - b. Placement
 - c. Curriculum
 - d. Employment
6. Demonstration of converted alternative fuel vehicle and engine training unit
7. Legislative status/Clean Air Act implementation
 - a. State
 - b. National
8. Committee discussion on future training programs
 - a. Indicators of need
 - b. Indicators of demand
 - c. Definition of target audiences
 - d. Transferring training mode!

3:00 p.m.—Approximate time of adjournment For further information, contact Linda Butcher at (512) 463-8905 or by fax at (512) 463-6921.

Issued in Austin, Texas, on September 1, 1995.

TRD-9511120 Mary Ross McDonald
Assistant Director, Legal Division
Gas Utilities/L.P.-Gas Section
Railroad Commission of Texas

Filed: September 1, 1995

Texas State Board of Veterinary Medical Examiners

Correction of Error

The Texas State Board of Veterinary Medical Examiners proposed a new 22 TAC §573.72 entitled "Animal Reproduction". The proposed rule was published in the August 25, 1995, issue of the *Texas Register* (20 TexReg 6581). The preamble submitted for publication did not reflect amendments and revisions intended to be made by the Board. The following preamble is submitted for publication to correct this error. No changes have been made to the rule as originally published. The comment period will not be extended due to this correction.

Please replace the previously published preamble to §573.72 with the following language:

The Texas Board of Veterinary Medical Examiners is proposing a new rule §573.72 entitled Animal Reproduction. This new rule defines procedures utilized in animal reproduction that constitute the practice of veterinary medicine. The board emphasizes that, pursuant to §3(a)(1) of

the Veterinary Licensing Act, Article 8890, Texas Civil Statutes, the provisions of the Act and this rule do not apply to the treatment or caring for animals in any manner, either personally by the owner, by any employee of the owner or a designated caretaker, unless ownership, employment, or designation was established with the intent of circumventing this Act.

Ron Allen, Executive Director of the Board, states this rule will have no fiscal implications for state or local government as a result of enforcing or administering the rule.

The public will be protected by enactment of this rule because it limits performance of certain animal reproduction procedures to licensed veterinarians. Some persons who are not licensed veterinarians may currently be performing the animal reproduction activities covered by this rule. The effect of this rule will require that such persons continue these activities only with appropriate involvement of a veterinarian or to cease the activities. Since the total number of these persons engaged in these animal repro-

duction activities are unknown, no estimate can be made of any changes in costs of operation to them or their clients. The rule clarifies which animal reproduction activities constitute the practice of veterinary medicine. It does not reclassify previously exempt activities.

Comments concerning this rule must be reduced to writing, and may be addressed to the Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Suite 2-330, Austin, Texas 78701-3998, (512) 305-7555 or Fax (512) 305-7556. All comments must be received by September 15, 1995.

This rule is being proposed under the authority of the Veterinary Licensing Act, §7(a), Article 8890, Texas Civil Statutes, which states "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

This rule relates to §2(2) and (11) of the Veterinary Licensing Act, Article 8890, Texas Civil Statutes.



PUBLICATION SCHEDULE

The following is the 1995 Publication Schedule for the Texas Register. Listed below are the deadline dates for the June-December 1995 issues of the Texas Register. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the Texas Register are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 7, November 10, November 28, and December 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
42 Friday, June 2	*Friday, May 26	Tuesday, May 30
43 Tuesday, June 6	Wednesday, May 31	Thursday, June 1
44 Friday, June 9	Monday, June 5	Tuesday, June 6
45 Tuesday, June 13	Wednesday, June 7	Thursday, June 8
46 Friday, June 16	Monday, June 12	Tuesday, June 13
47 Tuesday, June 20	Wednesday, June 14	Thursday, June 15
48 Friday, June 23	Monday, June 19	Tuesday, June 20
49 Tuesday, June 27	Wednesday, June 21	Thursday, June 22
50 Friday, June 30	Monday, June 26	Tuesday, June 27
51 Tuesday, July 4	Wednesday, June 28	Thursday, June 29
Friday, July 7	NO ISSUE PUBLISHED	
52 Tuesday, July 11	Wednesday, July 5	Thursday, July 6
Friday, July 14	Second Quarterly Index	
53 Tuesday, July 18	Wednesday, July 12	Thursday, July 13
54 Friday, July 21	Monday, July 17	Tuesday, July 18
55 Tuesday, July 25	Wednesday, July 19	Thursday, July 20
56 Friday, July 28	Monday, July 24	Tuesday, July 25
57 Tuesday, August 1	Wednesday, July 26	Thursday, July 27
58 Friday, August 4	Monday, July 31	Tuesday, August 1
59 Tuesday, August 8	Wednesday, August 2	Thursday, August 3
60 Friday, August 11	Monday, August 7	Tuesday, August 8
61 Tuesday, August 15	Wednesday, August 9	Thursday, August 10
62 Friday, August 18	Monday, August 14	Tuesday, August 15
63 Tuesday, August 22	Wednesday, August 16	Thursday, August 17
64 Friday, August 25	Monday, August 21	Tuesday, August 22
65 Tuesday, August 29	Wednesday, August 23	Thursday, August 24
66 Friday, September 1	Monday, August 28	Tuesday, August 29