

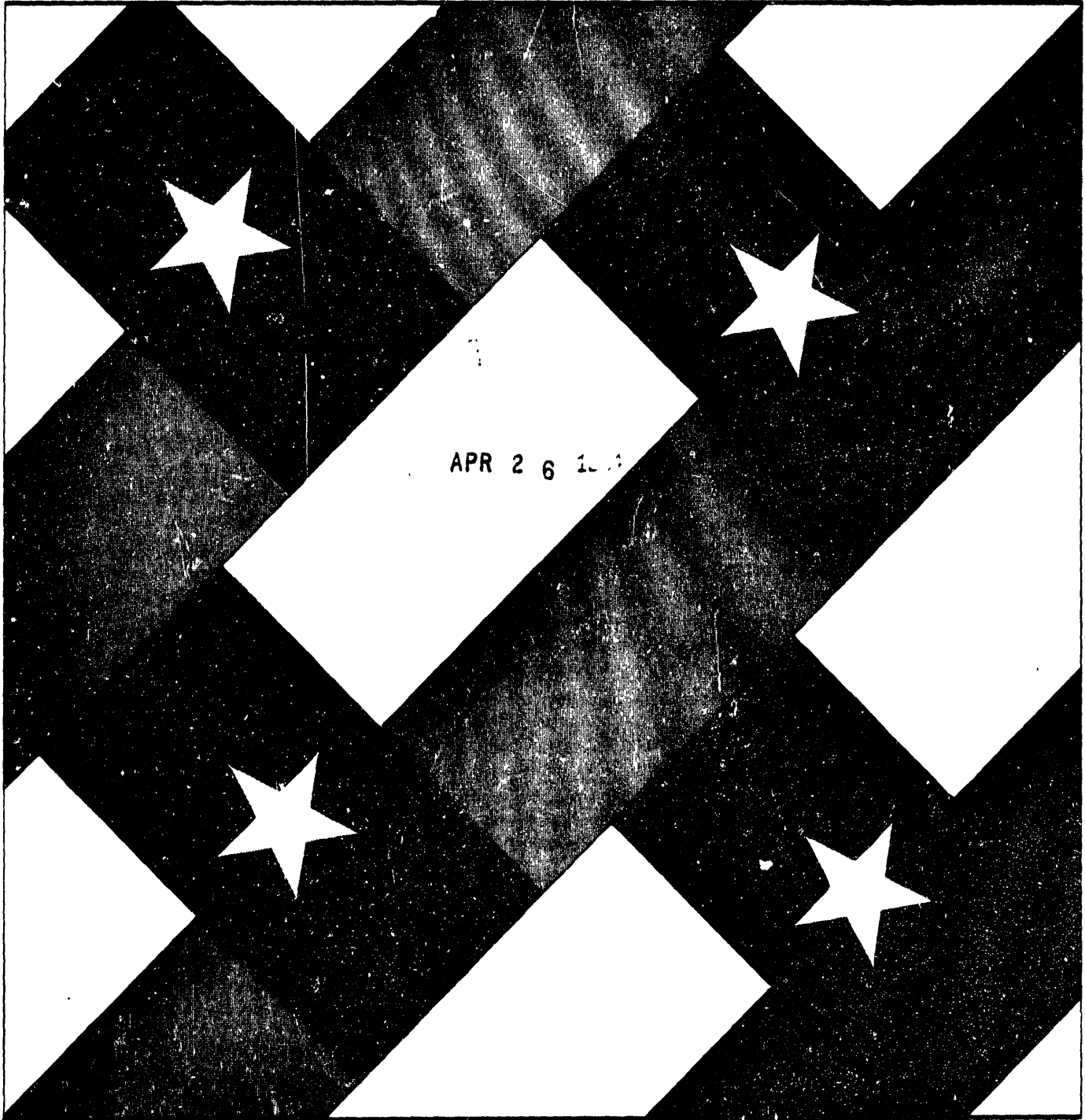
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Texas Register

Volume 9, Number 31, April 24, 1984

Pages 2283 - 2340



Highlights

The Texas Department of Health proposes an amendment concerning emergency medical care

Proposed date of adoption - June 16 page 2294

The Texas Department of Human Resources proposes a repeal and a new section in a chapter concerning Medicaid eligibility Earliest possible date of adoption - May 25 page 2296

The Texas State Board of Examiners of Dietitians adopts new sections concerning licensure Effective date - May 8 page 2310

**Office of
the Secretary
of State**

Texas Register

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- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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In order that readers may cite material more easily, page numbers are now written as citations. Example on page 2, in the lower left-hand corner of the page, would be written "9 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 9 TexReg 3."

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How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*,

TAC stands for the *Texas Administrative Code*,

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1, 15 represents the individual rule within the chapter).



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

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

Symbology in amended rules: New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

Emergency Rules

TITLE 1. ADMINISTRATION Part X. Automated Information Systems Advisory Council Chapter 201. Acquisition of Automated Information Systems

1 TAC §201.1

The Automated Information Systems Advisory Council is renewing the effectiveness of the emergency adoption of amended §201.1 for a 60-day period effective May 1, 1984. The amendments were originally adopted on an emergency basis in the December 27, 1983, issue of the *Texas Register* (8 TexReg 5446).

Issued in Austin, Texas, on April 12, 1984

TRD-844217 Charlotte D. Craig
Administrative Assistant
Automated Information Systems
Advisory Council

Effective date: May 1, 1984

Expiration date: June 30, 1984

For further information, please call (512) 475-2362.

TITLE 22. EXAMINING BOARDS Part XXXI. Texas State Board of Examiners of Dietitians Chapter 711. Dietitians Licensure

22 TAC §711.12

The Texas State Board of Examiners of Dietitians, with the approval of the Texas Board of Health, adopts on

an emergency basis new §711.12, covering violations, complaints, and subsequent board actions relating to the licensing of dietitians. This section implements the Texas Licensed Dietitian Act, Texas Civil Statutes, Article 4512h (Senate Bill 671, 68th Legislature, 1983, effective September 1, 1983). It is necessary that this rule be adopted on an emergency basis since complaints about alleged violations and prohibited actions under the Act are now being received by the board, and it needs to have procedures in effect to process the complaints. The rule is also proposed for permanent adoption in this issue of the *Texas Register*.

This new rule is adopted on an emergency basis under authority of the Administrative Procedure and Texas Register Act, Article 6252-13a, §5(d), which authorizes state agencies to adopt emergency rules, and the Licensed Dietitian Act, Texas Civil Statutes, Article 4512h, §6, which authorizes the Texas State Board of Examiners of Dietitians to adopt rules, subject to approval of the Texas Board of Health, to implement the Act.

§711.12. *Violations, Complaints, and Subsequent Board Actions.*

(a) Purpose. The purpose of this section is to set out:

- (1) violations and prohibited actions under the Act and the board rules,
- (2) procedures for filing complaints alleging violations and prohibited actions under the Act or rules,
- (3) the board's investigation of complaints, and
- (4) board actions against a person or licensee when violations and prohibited actions have occurred.

(b) Types of violations and prohibited actions

- (1) A person may not knowingly or intentionally represent or imply that he or she has the title of "licensed dietitian" or "provisional licensed dietitian" or use the letters "LD" or "PLD" or any facsimile of

those titles in any manner unless the person holds an appropriate license issued under the Act.

(2) A person may not intentionally or knowingly represent or imply that he or she has the title of "registered dietitian" or use the letters "RD" or any facsimile of that title in any manner unless the person is registered as a registered dietitian by the Commission on Dietetic Registration.

(3) A licensed dietitian may not violate any of the provisions of the Act or any rules adopted by the board

(c) Filing of complaints.

(1) Anyone may complain to the board alleging that a person has committed an action prohibited under the Act or that a licensee has violated the Act or a board rule.

(2) A person wishing to complain about a prohibited act or alleged violation against a licensee or other person shall notify the executive secretary. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the executive secretary's office. (Mailing address: 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7111.)

(3) Upon receipt of a complaint, the executive secretary shall send an acknowledgment letter to the complainant and the board's complaint form, herein adopted by reference, which the complainant must complete and return to the executive secretary before further action can be taken. If the complaint is made by a visit to the executive secretary's office, the form may be given to the complainant at that time; however, it must be completed and returned to the executive secretary before further action can be taken. Copies of the complaint form may be obtained from the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183.

(4) Anonymous complaints shall be investigated by the executive secretary provided that the complainant provides sufficient information.

(d) Investigation of complaints.

(1) The executive secretary and the complaint committee of the board are responsible for handling complaints. The complaint committee shall be composed of two board members who are licensed dietitians and one public member of the board.

(2) The executive secretary shall make the initial investigation and report the findings to the Complaint Committee

(e) Complaint Committee actions.

(1) The Complaint Committee shall take one or more of the actions described in this subsection.

(2) The committee may determine that an allegation is groundless and dismiss the complaint.

(3) The committee may determine that a non-licensed person has committed a prohibited action under subsection (b) of this section. If this is the person's first prohibited action and it represents no immediate threat to the health or safety of an individual or the public, the committee shall attempt to resolve the complaint by requesting the violator to stop the action immediately. If the violator complies, the committee will close the complaint file. If the person refuses to comply, or the prohibited action represents an immediate threat to health and safety of an individual or the general public, or if this is a second, subsequent, or repeat prohibited action,

the committee, with the concurrence of the board chairman, may ask the attorney general, district attorney, or county attorney to take appropriate legal action against the violator. Section 15(c) of the Act makes it a criminal offense of a Class B misdemeanor if a person knowingly or intentionally commits a prohibited action described in subsection (b)(1)-(2) of this section.

(4) The committee may determine that a licensed dietitian has violated the Act or a board rule. If this is the licensee's first violation during the annual licensing period and it represents no immediate threat to the health and safety of an individual or the general public, the committee shall attempt to resolve the complaint by requesting the violator to stop the action immediately. If the licensee complies, the committee shall close the complaint file. If the licensee refuses to comply, or the violation represents an immediate threat to the health and safety of an individual or the general public, or if the violation is a second, subsequent, or repeat violation during the annual licensing period, the committee may:

(A) request, with the concurrence of the board chairman, the attorney general, or district or county attorney to institute a suit to take appropriate legal action; and/or

(B) institute disciplinary action in accordance with subsection (f) of this section.

(5) At any time during the investigation of a complaint and prior to any court or disciplinary action against a licensee or other person, the committee may hold an informal conference on its own motion or at the request of the complainant or accused person to discuss the investigation and any proposed court or disciplinary action.

(6) Whenever the committee dismisses a complaint or closes a complaint file, the committee will give a summary report of the final action to the board, the complainant, and the accused party.

(f) Disciplinary actions by the Complaint Committee.

(1) If the committee is unable to resolve a complaint against a licensee who has violated the Act or a board rule under subsection (e) of this section, the committee shall reprimand the licensee or initiate action to suspend or revoke the license.

(2) The committee also may initiate action to suspend or revoke a license if the licensee has been convicted of a misdemeanor or felony offense under §711.11 of this title (relating to the Licensing of Persons with Criminal Backgrounds to Be Dietitians and Provisional Dietitians).

(3) A reprimand is a written notice from the committee to the licensee that the licensee has violated the Act or a board rule. The committee shall issue a reprimand when the licensee refuses a committee request to stop committing a first violation, during the annual licensing period, which represents no immediate threat to the health and safety of an individual or the general public. The reprimand shall include a second request from the committee to the licensee that the violator stop the action immediately.

(4) The committee initiates license suspension when the licensee refuses to comply with a reprimand request to stop the violation or when there is a second, subsequent, or repeat violation, during the annual licensing

period, which does not immediately threaten the health or safety of the individual or the general public.

(5) The committee initiates a license revocation when there are three or more violations (which may include repeat or different violations) during the annual licensing period, or when any one violation represents an immediate threat to the health or safety of an individual or the general public

(g) Formal hearings.

(1) The Complaint Committee may issue reprimands, but may only initiate or propose action to suspend or revoke a license. Final action to suspend or revoke a license can be taken by the board only after the licensee has had an opportunity for a formal hearing to contest the proposed committee action.

(2) The formal hearing shall be conducted according to the hearing procedures in §711.13 of this title (relating to Formal Hearings) or §711.11 of this title (relating to Licensing of Persons with Criminal Backgrounds to Be Dietitians and Provisional Dietitians), if the latter is applicable.

(3) At any time prior to initiating formal hearing procedures, the Complaint Committee, on its own motion or the motion of the licensee, may request an informal conference with the licensee to discuss the proposed action.

(4) To initiate formal hearing procedures, the executive secretary shall give the licensee written notice of the opportunity for hearing. The notice shall state the basis for the proposed action. Within 10 days after receipt of the notice, the licensee shall give written notice to the executive secretary that the licensee either waives the hearing or wants the hearing.

(A) If the licensee fails to respond within 10 days after receipt of the notice of opportunity, or if the licensee notifies the executive secretary that the hearing be waived, the licensee is deemed to have waived the hearing. If the hearing has been waived, the Complaint Committee may recommend to the board that the license be suspended or revoked. The board may take the final action which the board deems appropriate.

(B) If the licensee requests a hearing within 10 days after receiving the notice of opportunity for hearing, the executive secretary shall request the department's Office of General Counsel to initiate formal hearing procedures.

(5) When a formal hearing is conducted, the board will determine the necessary final action after receiving the hearing officer's recommendation. The Complaint Committee members shall not participate in this final action.

(h) Final action by the board.

(1) If the board suspends the license, the suspension remains in effect until the board determines that the reasons for the suspension no longer exist. The board may require an investigation by the executive secretary and a recommendation by the Complaint Committee to assist the board in making its determination.

(2) During the time of suspension, the former license holder shall return the license certificate and license identification card to the board.

(3) Upon showing of good cause by the former license holder, the board may probate the license suspension. Good cause means reasons which are real, substantial, and reasonable and give the board a sound basis upon which to probate suspension.

(4) If a suspension overlaps a license renewal period, the former license holder must comply with the normal renewal procedures in these rules; however, the license will not be renewed until the board determines that the reasons for suspension have been removed.

(5) If the board revokes the license, the former license holder must reapply in order to obtain a new license. The board will not issue a new license until the board determines that the reasons for revocation have been removed. The board may require an investigation by the executive secretary and a recommendation from the Complaint Committee to assist the board in making its decision.

(6) Upon revocation, the former license holder shall return the license certificate and license identification card to the board.

Issued in Austin, Texas, on April 17, 1984

TRD-844300

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

Effective date: April 17, 1984

Expiration date: August 15, 1984

For further information, please call (512) 458-7531.

Proposed Rules

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

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state and local government and small businesses; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

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

TITLE 22. EXAMINING BOARDS Part IV. Texas Cosmetology Commission Chapter 89. General Provisions

22 TAC §89.5

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Cosmetology Commission, 1111 Rio Grande Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Cosmetology Commission proposes the repeal of §89.5, concerning transfer of school licenses.

Herbert E. Cohen, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Cohen also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is clarification of the language of the statutes, thereby avoiding confusion. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, Frank Joseph Cosmetology Building, 1111 Rio Grande Street, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

§89.5. *Transfer of School 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 April 16, 1984.

TRD-844237

Herbert E. Cohen
Executive Director
Texas Cosmetology Commission

Earliest possible date of adoption:

May 25, 1984

For further information, please call (512) 475-3304.

22 TAC §89.14, §89.52

The Texas Cosmetology Commission proposes new §89.14 and §89.52, concerning students who are enrolled at two beauty schools concurrently and procedures for filing complaints.

Herbert E. Cohen, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Cohen also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of the language of the statutes, thereby avoiding confusion. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, Frank Joseph Cosmetology Building, 1111 Rio Grande Street, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

§89.14. Concurrent Enrollments. In order for a student to receive hours while enrolled concurrently in two schools, a registration must be submitted to the Texas Cosmetology Commission and the primary school by the secondary school involved. Upon completion of the concurrent enrollment, a transcript of hours accrued in the secondary school will be submitted to both the primary school and the Texas Cosmetology Commission.

§89.52. Definition of Complaint. In order for the commission to act on complaints against cosmetologists or cosmetology establishments filed with the commission by persons other than the commission's licensed inspectors or the commission's enforcement staff, the complaint shall be submitted in writing, on a form provided by the commission, and acknowledged before a notary public. All unacknowledged complaints shall be kept in an information file as required by the Cosmetology Act, Texas Civil Statutes, Article 8451a, §41(a).

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 April 16, 1984

TRD-844238 Herbert E. Cohen
Executive Director
Texas Cosmetology Commission

Earliest possible date of adoption.

May 25, 1984

For further information, please call (512) 475-3304.

22 TAC §89.21, §89.25

The Texas Cosmetology Commission proposes amendments to §89.21 and §89.25, concerning the length of time student records will be kept at the agency and the length of time a student's health certificate is valid.

Herbert E. Cohen, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Cohen also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of the language of the statutes, thereby avoiding confusion. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, Frank Joseph Cosmetology Building, 1111 Rio Grande Street, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

§89.21. Thirty-Six Month Valid Hours. Record of hours completed in a school in this state will be retained by the commission for a period of 36 months from date of entry in school, after which time said records will be destroyed. If a student withdraws from school prior to completion of the required course of instruction and does not reenroll so as to finish the training within the 36-month period, hours accrued will be lost. [Exceptions may be made to the 36-month requirement by the Texas Cosmetology Commission in cases of extreme hardship.] Hours will be lost for any student not taking the exam after 36 months from date of completion. **Those students previously failing the examination must reapply and retake and successfully pass the examination within a 36-month time period. Records after the 36-month waiting period will be destroyed. This rule also applies to out-of-state applicants.**

§89.25. Health Certificate. A student enrolled in school shall furnish a health certificate which includes a physical and tuberculosis test not over one year [eight weeks] old at the time of enrollment date. No credit for hours shall be given prior to the date of the health certificate. Students retaking the written portion of the examination only will not be required to obtain a new health certificate.

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 April 16, 1984.

TRD-844239 Herbert E. Cohen
Executive Director
Texas Cosmetology Commission

Earliest possible date of adoption:

May 25, 1984

For further information, please call (512) 475-3304.



**Part XXXI. Texas State Board of
Examiners of Dietitians
Chapter 711. Dietitians
Licensure**

22 TAC §711.12

(Editor's note: The Texas State Board of Examiners of Dietitians proposes for permanent adoption the new rule it adopts on an emergency basis in this issue. The text of the rule is published in the Emergency Rules section of this issue.)

The Texas State Board of Examiners of Dietitians proposes new §711.12, concerning violations, complaints, and subsequent board actions relating to the licensing of dietitians. These rules are simultaneously adopted on an emergency basis in this issue of the *Register*. These rules cover the general procedures for processing complaints of alleged violations or prohibited acts under the Licensed Dietitian Act or the rules of the board.

Stephen Seale, chief accountant III, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the establishment of procedures to enable members of the public to file complaints with the board alleging violations and prohibited actions under the Licensed Dietitian Act or the rules of the board. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be from 0 to \$3,000 if an individual requests a formal hearing, is granted one, and engages the services of legal counsel.

Comments on the proposal may be submitted to Donna S. Hardin, Executive Secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7531. Comments will be received for 30 days from the date of publication of the proposed rules.

The new section is proposed under Texas Civil Statutes, Article 4512h, §6, which provide the Texas State Board of Examiners of Dietitians, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with the Licensed Dietitian Act.

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 April 17, 1984

TRD-844301 Robert A. MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
June 16, 1984

For further information, please call (512) 458-7531.

**TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 1. Texas Board of Health
Petition for the Adoption of a Rule**

25 TAC §1.81

The Texas Department of Health proposes amendments to §1.81, concerning petitions to the department for the adoption of a rule.

Stephen Seale, chief accountant III, has determined that there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rule.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is clarification of the procedures for submission, consideration, and disposition of a petition for the adoption of a rule and requirement of a petitioner to submit his or her version of the proposed rule to assist the department in determining the public benefit or necessity for the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Hal L. Nelson, Chief, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 6252-13a, §11, which provide the department with the authority to adopt procedures covering the submission, consideration, and disposition of a petition to the department for the adoption of a rule.

§1.81. Petition for the Adoption of a Rule.

(a) Purpose. The rule's purpose is to delineate the **Texas Board of Health's** [department's] procedures for the submission, consideration, and disposition of a petition to the **board** [department] to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the **board** [department] to adopt a rule.

(2) **The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it; however, if the Texas commissioner of health determines that further information is necessary to assist the board in reaching a decision, the commissioner may require that the petitioner resubmit the petition and that it contain:** [No special form is required but the petition must be in writing and specify the rule and the reasons for it. The petitioner may submit his or her version of the rule with the petition.]

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The board may deny a petition which does not contain the information in paragraph (2) of this subsection, or the information in paragraph (2)(A)-(D) of this subsection if the commissioner determines that the latter information is necessary.

(4)[(3)] The petition shall be mailed to the Texas Commissioner of Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(c) Consideration and disposition of the petition.

(1) (No change.)

(2) Within 60 days after the postmark date of the petition, or within 60 days after the postmark date of a resubmitted petition in accordance with subsection (b)(2)(A)-(D) of this section, the board shall deny [or accept] the petition or institute rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, §5. The board may deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(3)[(A)] If the board denies the petition, the commissioner shall give the petitioner written notice of the board's denial, including the board's reasons for the denial.

(4) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

[(B) If the board accepts the petition, the board shall initiate rule-making procedures in accordance with the requirements of the Administrative Procedure and Texas Register Act. The commissioner shall notify the petitioner in writing of the board action.

[(C) If the petitioner submits his or her version of the rule, the board may approve a different version. If so, the commissioner shall notify the petitioner in writing of this action and the board's reasons for it.]

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 April 17, 1984.

TRD-844302 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
June 16, 1984

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

Chapter 37. Maternal and Child Health Services March of Dimes Rules on Health Education Grants

25 TAC §37.11

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be ex-

amined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of §37.11, concerning March of Dimes rules on health education grants.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of the repeal.

Mr. Seale has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which no longer serves a public health purpose because the agency is no longer receiving March of Dimes grants. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Clift Price, M.D., Associate Commissioner for Personal Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which provide the Texas Board of Health with the authority to adopt rules for the conduct and performance of its duties.

§37.11. Health Education Grants.

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 April 17, 1984.

TRD-844303 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:

June 16, 1984
For further information, please call (512) 458-7321.

Chapter 49. Early Periodic Dental Screening Treatment Rules on Early Periodic Dental Screening Treatment

25 TAC §§49.1-49.3

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of §§49.1-49.3, concerning early periodic dental screening treatment.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of the repeal.

Mr. Seale has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of rules that are no longer necessary because the department no longer has a contract with the Texas Department of Human Resources to provide early periodic dental screening treatment. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposed repeal may be submitted to Clift Price, M.D., Associate Commissioner for Personal Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which provide the Texas Board of Health with the authority to adopt rules for the conduct and performance of its duties.

- §49.1. *Contracts with the Texas Department of Public Welfare*
- §49.2. *Early Periodic Screening Dental Program Professional Advisory and Review Committee*
- §49.3. *Criteria for Eligibility for the State Dental Care Program.*

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 April 17, 1984

TRD-844304 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption

June 16, 1984
For further information, please call (512) 458-7321.

Chapter 157. Emergency Medical Care

Emergency Medical Services Systems

25 TAC §157.43

The Texas Department of Health proposes amendments to §157.43, concerning Texas Department of Health Emergency Medical Services (EMS) Systems Program guidelines. The existing §157.43 contains no reference to §1202 in the guidelines. The amendment

will allow references to §1202 to allow continuation of Regional EMS Advisory Council activities.

Stephen Seale, chief accountant III, has determined that there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rule.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is allowance of the continuation of Regional EMS Advisory Council activities. It is anticipated that this continuance will insure delivery of improved EMS systems. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after publication of this proposed amendment in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4447o, §2.03, which provide the Texas Board of Health with the authority to adopt rules covering EMS delivery areas.

§157.43. *Documents Adopted by Reference*

(a) The department adopts by reference the following documents.

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

(3) The department's "Emergency Medical Services Systems Program Guidelines" with the following exceptions or modifications:

(A) **References to §1202 will be titled "Continuation of an EMS System to Insure Delivery of Improved EMS." Funding years will not be limited and will allow continuation of Regional EMS Advisory Council activities.** [Any reference to §1202 will be deleted.]

(B)-(G) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on April 17, 1984

TRD-844307 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption

June 16, 1984
For further information, please call (512) 458-1393.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

**Chapter 8. HEAP
HEAP Cooling Program**

40 TAC §8.3502

The Texas Department of Human Resources proposes to amend §8.3502, concerning cooling assistance in the Home Energy Assistance Program (HEAP). The basis for each year's income limits is being changed. The rule currently states that a household's income may not exceed 75% of the Bureau of Labor Statistics' lower living standard in effect at the time of eligibility determination. Because the bureau no longer publishes an annual index, the department is proposing that the 1981 Bureau of Labor Statistics' lower living standard be updated by the October 1981 through October 1982 percentage increase in the Consumer Price Index for Houston. The gross monthly income limits for the fiscal year 1984 program are:

Household Size	Income
1	\$ 355.49
2	581.49
3	789.49
4	985.49
5	1,162.49
6	1,359.49

Participants in the 1984 winter phase of HEAP who continue to meet the income guidelines will be paid automatically if the household's status has not changed since December 31, 1983. The following persons will receive a questionnaire to determine their eligibility for cooling assistance. Adults (age 18 or older) who are included in the department's computer files as of May 31, 1984, to receive Aid to Families with Dependent Children (AFDC), food stamps, or Supplemental Security Income (SSI) benefits in June; Veterans Administration (VA) needs-tested clients whose income meets the HEAP program guidelines.

These persons must complete and return the questionnaire to the department. The department uses the questionnaire to establish the household's composition and its vulnerability to increases in energy costs. To ensure that all potentially eligible households have an adequate opportunity to apply for assistance, a second questionnaire will be mailed to persons who do not return the original form about one month after the cut off for returning the original questionnaire. In most instances, benefits will be paid directly to eligible households.

In response to public concerns that benefits are not always spent for energy costs, the department plans to test a vendor payment system this summer. Households that return the second questionnaire showing an identifiable electric utility supplier will receive a warrant made payable to that company rather than to a member of the household. Illustration: Lighting

& Power Company for John Doe, Street Address, City, State, Zip Code.

Recipients of these warrants should send their HEAP check to their electric company when they pay their monthly bill. The department will consider the results of the pilot to determine if a cost-effective method of operation can be implemented statewide during the fiscal year 1985 program.

David Hawes, programs budget and statistics director, has determined that there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rule.

Mr. Hawes also has determined that for each year of the first five years the rule as proposed is in effect the public benefit is assistance to low-income households in meeting the increased cost of energy for their homes. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments are invited and may be sent to Cathy Rosenberg, Acting Administrator, Policy Development Support Division—249, P.O. Box 2960, Austin, Texas 78769.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§8.3502. Income. For HEAP cooling assistance, the household's income is its gross income (without any deductions) as determined by the household's AFDC, food stamp, SSI, or Veterans Administration worker. To meet the income requirement, a household's income may not exceed 75% of the Bureau of Labor Statistics lower living standard as updated by the October 1981 to October 1982 percentage change in the Consumer Price Index for Houston [in effect at the time of eligibility determination].

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 April 17, 1984

TRD-844328 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption

May 25, 1984

For further information, please call (512) 441-3355, ext. 2037.

**Chapter 15. Medicaid Eligibility
Subchapter GG. Resources for
Individuals Related to the SSI Program**

The Texas Department of Human Resources proposes to repeal, add, and amend its Medicaid eligibility rules.

Sections 15.3206-15.3208 are being repealed and replaced by new §15.3206, which clarifies that an individual's home is excluded as a resource if it is his principal place of residence. It also defines dependent relative for those cases in which the home is an excludable resource because a relative lives there. A home can no longer be automatically excluded for six months during an individual's temporary absence for health reasons. The exclusion is based on the individual's intent to return home. If an individual transfers his home while it is excluded for his intent to return, the exclusion terminates immediately and the caseworker follows the policy in §15.3225.

Section 15.3218 is being amended to specify that the caseworker may grant only one three-month extension to the disposition period when an individual is making an effort to dispose of a resource. If a contract for sale is made during the allowable disposition period, the caseworker continues to exclude the property through the closing date of the sale. The individual must be making a reasonable effort to conclude the transaction. If an individual transfers property being excluded for disposition without reasonable compensation, the exclusion terminates immediately. The caseworker then applies the policy in §15.3225.

Section 15.3225 is being amended to define compensation for the transfer of a resource as goods, care, or services that are provided according to a legally binding agreement, either written or oral. If the individual receives cash as additional compensation for a transferred resource, the caseworker reduces the amount of uncompensated value by the amount of the payment, effective the date paid. Section 15.3225 is also being amended to state that if a transferred resource is returned to an individual, the transfer is nullified, effective the date of return.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. Mr. Hawes has determined that there will be savings to the state in fiscal year 1984-1988. The estimated savings to the state will be \$9,323 for fiscal year 1984, \$19,500 for fiscal year 1985, \$21,322 for fiscal year 1986, \$22,449 for fiscal year 1987, and \$24,834 for fiscal year 1988. There is no economic cost to units of local government or small businesses.

Mr. Hawes has also determined that for each year of the first five years the rules are in effect the public benefit will be some cost savings because individuals with excess resources will no longer be eligible for Medicaid benefits. There is no anticipated economic cost to individuals required to comply with the rules.

Written comments may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division-225, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

40 TAC §§15.3206-15.3208

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

§15.3206. *Home.*

§15.3207. *The Home as an Exempt Resource.*

§15.3208. *Home Resource 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 April 17, 1984.

TRD-844329

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:

May 25, 1984

For further information, please call (512) 441-3355, ext. 2037.

40 TAC §15.3206

The new section is proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

§15.3206. *Home.* The department does not consider the value of a home, which is the principal place of residence of an individual or spouse, a countable resource in determining the eligibility of the individual or couple.

(1) Definition of a home.

(A) A home is defined as any structure used by the individual for residence (including mobile homes, houseboats, and motor homes), other buildings, and all adjacent land. All land adjacent to the home includes any land separated by roads, rivers, and streams. Land is adjacent as long as it is not separated by intervening property owned by another person. This means all the land associated with the home whether or not there is a business operated in connection with the home or property. Adjacent property is considered a part of the home even if the:

- (i) holdings are under more than one document of ownership (that is, separate deeds),
- (ii) home was obtained at a different time from the rest of the land, or
- (iii) holdings are assessed and taxed separately.

(B) Home property may be jointly owned or ownership may be in the form of a life estate or an interest in an intestate estate.

(2) The home as the principal place of residence.

(A) The home of an individual must be his principal place of residence to be excluded. The individual may establish only one living place as his principal place of residence. If an individual indicates that he lives in more than one place, or owns more than one residence, he must designate which living place is his principal place of residence. If the individual is unable to make this decision, the caseworker may base the determination on statements obtained from the individual's physician, guardian, or responsible party. The caseworker may also base the determination on addresses the individual uses.

(B) An individual who applies for and receives Medicaid benefits in Texas may not have a home located in another state excluded under this provision. If the individual considers his home in another state to be his principal place of residence, the individual is not a resident of Texas and must apply for assistance in his home state.

(3) Temporary absence from the home.

(A) Absences from home for trips, visits, and medical treatment do not affect the home exclusion if the individual:

(i) continues to consider the home to be his principal place of residence, and

(ii) intends to return home.

(B) The primary evidence of an individual's intent to return home is his statement on a signed statement of intent to return home form. If the individual lives in a long-term care facility, the caseworker must obtain at least one other statement from:

(i) a relative who knows the facts,

(ii) a legal guardian,

(iii) a representative payee, or

(iv) the individual's physician.

(C) The person making this statement may co-sign the statement of intent to return to home form or provide a separate oral or written statement. The purpose of the statement is to support or contradict the individual's statement of intent. If statements provided by the other sources are inconclusive, then the individual's statement of intent to return home is final. If the physician strongly disagrees with the intent of the individual to return home, the caseworker can overrule the individual's statement.

(D) If the individual is incompetent, comatose, or otherwise unable to furnish a statement regarding temporary absence and intent to return, the caseworker must obtain a statement on the statement of intent to return to home form from a:

(i) relative,

(ii) representative payee,

(iii) legal guardian, or

(iv) physician

(E) The caseworker considers a statement from one of these parties the same as a statement from the individual.

(4) Spouse or dependent relative living in the home.

(A) The caseworker also excludes the principal place of residence of an institutionalized individual if his spouse or a dependent relative continues to live in the home. This is true even if the institutionalized individual does not intend to return home.

(B) For the purposes of this paragraph, a relative is defined as: son, daughter, grandson, granddaughter, stepson, stepdaughter, half sister, half brother, grandmother, grandfather, in-laws, mother, father, stepmother, stepfather, aunt, uncle, sister, brother, stepbrother, stepsister, nephew, or niece. A dependent relative is one who:

(i) was living in the individual's home before the individual's absence, and

(ii) is unable to support himself outside of the individual's home because of medical, social, or other reasons.

(5) The home as a countable resource.

(A) The caseworker cannot exclude the home if the individual is not living in the home and:

(i) the individual's statement or other information indicates he does not intend to return to the home, and

(ii) the individual's spouse or a dependent relative does not currently live in the home.

(B) The caseworker considers the individual's equity interest in the home an available resource.

(C) If an individual is not living in his home and transfers ownership for less than market value while it is excluded for intent to return home, the transfer automatically nullifies the exclusion. The caseworker must then apply the policy in §15.3225 of this title (relating to Transfer of Resources)

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 April 17, 1984

TRD-844330

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption

May 25, 1984

For further information, please call (512) 441-3355,
ext. 2037.

40 TAC §15.3218, §15.3225

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

§15.3218. Disposition of Excess Nonliquid Resources.

(a)-(e) (No change.)

(f) **The caseworker may grant only one three-month extension to the disposition period. When an individual receives and accepts a firm offer for purchase of the resource during the initial or extended disposition period, the caseworker excludes the resource until completion of the sale. The individual must continue to make a bona fide effort to complete the sale. [Every three months and at each periodic review, the caseworker re-determines the equity value of the resource and its marketability if the value continues to potentially affect eligibility.]**

(g) If an individual refuses to accept a legitimate purchase offer based on a reasonable market value for the resource, the caseworker:

- (1) terminates the disposition agreement, and
- (2) counts the equity value of the resource in determining ongoing eligibility.

(h) If an individual transfers a resource for less than fair market value while it is being excluded under a disposition agreement, the exclusion terminates effective the date of transfer. The caseworker then applies the policy in §15.3225 of this title (relating to Transfer of Resources).

§15.3225 *Transfer of Resources*

(a) (No change.)

(b) Definitions The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise

(1)-(2) (No change)

(3) Compensation—[The] Compensation for a resource includes all money, real or personal property, food, shelter, or services received by the individual at or after the time of transfer in exchange for the resource. **The compensation must be provided according to a legally binding agreement, either written or oral, in effect at the time of transfer. Compensation can also be received before the actual transfer if it was provided according to a legally binding agreement. The individual must have agreed, verbally or in writing, that he would transfer the resource or otherwise pay for the care or services to be provided. Compensation also includes payment or assumption of a legal debt owed by the eligible individual in exchange for the resource. If an individual receives cash as additional compensation for a transferred resource, the caseworker reduces the amount of uncompensated value by the amount of the payment, effective the date paid.**

(4) (No change)

(c) Determining the uncompensated value If an individual who applied for assistance on or after March 1, 1981, reports, or other evidence indicates, that he [or she] has sold, given away, or otherwise transferred any resource(s) within the 24 months preceding the date of application, or since the time of the last review, the caseworker will determine whether or not the transfer was valid, that is [i.e.], the resource is no longer the legal possession of the individual. **If evidence indicates that a legal sale or transfer did not occur, the caseworker considers the resource still to be available to the individual.** [If not, the resource is considered to be still available to the individual.] If the transfer was valid, the **caseworker determines** [case worker will determine] whether the resource would have been excludable at the time of transfer. If so, [the basis for the exclusion should be documented in the case record and] the value of that resource will not be considered in determining eligibility. If the asset transferred was a nonexcluded resource, the worker will

(1) (No change)

(2) determine and document the amount of compensation received by the individual in exchange for the

resource. The value of compensation received is based on the agreement and expectation of the parties at the time of the transfer. **Past or future provision of support, maintenance, or services may be claimed as compensation for transfer of a resource. The individual or responsible party and the recipient of the transferred resource must provide evidence that the support, maintenance, or services are/were provided in exchange for the resource under a written or oral agreement.** Compensation may be in one or a combination of several forms, such as:

(A)-(D) (No change)

(3) (No change.)

(d) (No change)

(e) Rebuttal of the presumption that resource was transferred to establish eligibility. The statutory provisions covering the transfer of resources are very restrictive in regard to the presumption that all transfers for less than fair market value are considered to be for the purpose of establishing eligibility for assistance. The individual applicant or recipient (or responsible party) is responsible for providing convincing evidence that the transaction in question was exclusively for some other purpose

(1)-(2) (No change)

(3) All statements and documentation provided by the individual must be carefully considered. **Rebuttal of the presumption that the resource was transferred to establish eligibility is successfully made only if the individual convincingly demonstrates that the resource was transferred exclusively for some other purpose. If the individual had some other purpose for transferring the resource, but establishing eligibility seems to have also been a factor in the decision to transfer, the presumption is not successfully rebutted. If the caseworker determines** [In all instances in which the case worker feels] that the individual has successfully rebutted the presumption **that the resource was transferred to establish eligibility**, the unit supervisor or program director must review and concur with the decision. [Documentation of this concurrence must be maintained in the case record.] **When the** [Once this] concurrence is obtained, the value of the transferred resource may be totally excluded in determining eligibility

(1) (No change)

(g) **Return of a transferred resource. If the recipient of a transferred resource returns it to the individual, the transfer is nullified effective the date of return.**

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 April 17, 1984

TRD-844331

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption

May 25, 1984

For further information, please call (512) 441-3355,
ext 2037

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

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule, how the rule will function; contain comments received on the proposal, list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes, and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

Adopted Rules

TITLE 22. EXAMINING BOARDS Part XIII. Texas Board of Licensure for Nursing Home Administrators

The Texas Board of Licensure for Nursing Home Administrators adopts the repeal of §§241.1-241.5, 243.1-243.5, 245.1-245.3, 247.1-247.4, 249.1-249.3, 251.1, 253.1-253.4, 255.1-255.5, 257.1-257.10, and 259.1 and new §§241.1-241.3, 243.1-243.4, 245.1-245.3, 247.1-247.5, 249.1-249.4, and 251.1-251.5, without changes to the proposed text published in the March 20, 1984, issue of the *Texas Register* (9 TexReg 1611).

It is the intent that these regulations will combine all rules into a consolidated document by removing the redundancy of directives contained in Texas Civil Statutes, Article 4442d, and restate in clear, concise, and accurate language the agency regulations.

The repeals and the new sections enable the agency to carry out its objectives.

Concerning new §§247.1-247.5, Wesley Rogers questioned the minimum requirements for application and for licensure. There is a distinction made between application and licensure requirements covered in different paragraphs in these sections. No revision is required as context in total appears adequate. No other comments were received regarding adoption of the repeals and new sections.

Chapter 241. Administrative Authority

22 TAC §§241.1-241.5

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844248

Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984

Proposal publication date: March 20, 1984

For further information, please call (512) 479-0922.

22 TAC §§241.1-241.3

The new sections are adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844258 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.



Chapter 243. Application

22 TAC §§243.1-243.5

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other ac-

tions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844249 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administration

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

22 TAC §§243.1-243.4

The new sections are adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984

TRD-844259 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 245. Examination

22 TAC §§245.1-245.3

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the

performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844250 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

The new sections are adopted under Texas Civil Statutes, Article 4442d, § 8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984

TRD-844260 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 247. Education

22 TAC §§ 247.1-247.4

The repeal is adopted under Texas Civil Statutes, Article 4442d, § 8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other ac-

tions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984

TRD-844251 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

22 TAC §§ 247.1-247.5

The new sections are adopted under Texas Civil Statutes, Article 4442d, § 8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844261 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 249. License Certificates

22 TAC §§ 249.1-249.3

The repeal is adopted under Texas Civil Statutes, Article 4442d, § 8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the

performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844252 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

22 TAC §§249.1-249.4

The new sections are adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984

TRD-844262 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 251. Inactive Status

22 TAC §251.1

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the

performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844253 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 251. Disciplinary

22 TAC §§251.1-251.5

The new sections are adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, § 1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844263 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 253. Complaint Procedures

22 TAC §§253.1-253.4

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsis-

tent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844254 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 255. Disciplinary Action

22 TAC §§255.1-255.5

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984

TRD-844255 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 257. Hearing Procedures

22 TAC §§257.1-257.10

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of

Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844256 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.

Chapter 259. Reciprocity

22 TAC §259.1

The repeal is adopted under Texas Civil Statutes, Article 4442d, §8, which provide the Texas Board of Licensure for Nursing Home Administrators with the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in the Social Security Act, §1908, the federal rules and regulations promulgated thereunder, and other pertinent federal authority; provided, however, that no rules shall be promulgated, altered, or abolished without the approval of a two-thirds majority of the board.

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 April 16, 1984.

TRD-844257 Dottie Mathieson
Supervisor
Administrative Services
Texas Board of Licensure for
Nursing Home Administrators

Effective date: May 7, 1984
Proposal publication date: March 20, 1984
For further information, please call (512) 479-0922.



Part XXV. Structural Pest Control Board

The Structural Pest Control Board adopts the repeal of §§591.1-591.5, 591.11-591.15, 591.21-591.23, 591.31, 591.41-591.44, 593.1-593.7, 593.21-593.23, 593.31, 593.32, 593.41-593.43, 593.51-593.56, 593.71-593.76, 593.91, 593.92, 595.1, 595.11, 597.1, 597.2, 597.11, 597.21, 597.31, 597.41, and 599.1-599.5, without changes to the proposals published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1124).

The sections are repealed to eliminate redundant language. The repealed sections are replaced with new sections which present the board rules in a more organized and concise manner and provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6.

The repeals enable the board to develop a more uniform compliance and enforcement program and to establish uniform procedures for reviewing and investigating consumer complaints.

No comments were received regarding adoption of the repeals.

Chapter 591. Introductory Provisions The Board

22 TAC §§591.1-591.5

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984

TRD-844268 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.



Rules

22 TAC §§591.11-591.15

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844270 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Records

22 TAC §§591.21-591.23

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844271 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Definition of Terms

22 TAC §§591.31

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844272 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Licenses

22 TAC §§591.41-591.44

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844273 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

General Rules

22 TAC §§593.31, 593.32

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844277 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 593. Procedure and Practice at Public Hearings Hearings and Meetings

22 TAC §§593.1-593.7

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844274 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Appearance

22 TAC §§593.41-593.43

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844278 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Written Protests

22 TAC §§593.21-593.23

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844276 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Evidence

22 TAC §§593.51-593.56

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844279 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Exhibits

22 TAC §§593.71-593.76

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844280 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Appeal

22 TAC §595.11

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844284 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Arguments and Briefs

22 TAC §593.91, §593.92

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844281 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 597. Additional Provisions Filing of Instruments

22 TAC §597.1, §597.2

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844285 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 595. Proceedings after Permit Application Hearings

Action after Hearing

22 TAC §595.1

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844282 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Change of Address and Transfers

22 TAC §597.11

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844287 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Complaints

22 TAC §597.21

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844288 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Pesticide Use Records Required to Be Kept

22 TAC §597.31

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844289 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Contracts

22 TAC §597.41

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844290 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 599. Grounds for Revocation

22 TAC §§599.1-599.5

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844291 David A. Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.



Chapter 591. General Provisions

22 TAC §§591.1-591.9, 591.21

The Structural Pest Control Board adopts new §§591.1-591.9 and 591.21, without changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1130).

The new sections are adopted to provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6.

The new sections explain the board's general authority, outline procedures for board hearings, and give definitions of terms.

General statements of approval were received from James Boren, Allan C. Erwin, Bob Sprague, Harry Newton, and Vernon Walters.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844269 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.



Chapter 593. Licenses

22 TAC §§593.1-593.9

The Structural Pest Control Board adopts new §§593.1-593.9, without changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1132).

The new sections are adopted to provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6. This enables the board to develop a more uniform compliance and enforcement program and establish uniform procedures for reviewing and investigating consumer complaints.

The new sections explain who is required to be licensed and how to obtain a license.

General statements of approval were received from James Boren, Allan C. Erwin, Bob Sprague, Harry Newton, and Vernon Walters.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844275 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 595. Compliance and Enforcement

22 TAC §§595.1-595.5, 595.21-595.23

The Structural Pest Control Board adopts new §§595.1-595.5 and 595.21-595.23, without changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1134).

The new sections are adopted to provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6. This enables the board to develop a more uniform compliance and enforcement program and establish uniform procedures for reviewing and investigating consumer complaints.

The new sections explain how licensees are to comply with the rules, define the board's investigative authority, and outline complaint procedures.

General statements of approval were received from James Boren, Allan C. Erwin, Bob Sprague, Harry Newton, and Vernon Walters.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844283 David A. Ivie
Executive Director
Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 597. Unlawful Acts and Grounds for Revocation

22 TAC §§597.1-597.3

The Structural Pest Control Board adopts new §§597.1-597.3, without changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1136).

The new sections are adopted to provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6. This enables the board to develop a more uniform compliance and enforcement program and establish uniform procedures for reviewing and investigating consumer complaints.

The new sections inform the public and licensees of acts considered to be unlawful.

General statements of approval were received from James Boren, Allan C. Erwin, Bob Sprague, Harry Newton, and Vernon Walters.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

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 April 13, 1984.

TRD-844286 David A. Ivie
Executive Director
Structural Pest Control Board

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Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Chapter 599. Treatment Standards

22 TAC §599.1, §599.11

The Structural Pest Control Board adopts new §599.11, with changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1137). Section 599.1 is adopted without changes and will not be republished in this issue.

The new sections provide the public with a clear explanation of the Structural Pest Control Board's authority and responsibility under Texas Civil Statutes, Article 135b-6.

The new sections identify standards for board approval of termite treatments and establishes approved procedures for structural fumigation.

All commenters were in favor of adoption. Some asked for more definitive language. One commenter asked for the definition of structural fumigation. Section 599.11(a) was amended to clarify the term. One commenter asked for optional locations to place treatment signs. Section 599.11(g) was amended to include the area around the hot water heater as accept-

able. One commenter asked for clarification of who is authorized to introduce a fumigant because of confusing language in §599.11(a) and §599.11(g)(11). Section 599.11(g)(11) was amended for clarification. A board member suggested that the security guard should be a person. This was done in §599.11(i). James Boren, Allan C. Erwin, Bob Sprague, Harry Newton, and Vernon Walters commented in favor of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Texas Structural Pest Control Board with the authority to test, license, and regulate the structural pest control industry.

§599.11. Structural Fumigation Requirements.

(a) Fumigation of structures to control wood destroying organisms shall be performed only under the direct on-site supervision of a certified applicator licensed by the board in the category of fumigation. Direct on-site supervision shall mean that the certified applicator exercising such supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

(b) Fumigation shall be performed in compliance with all label requirements applicable to state, county, and city laws and ordinances and all applicable laws and regulations of the United States.

(c) Prior to the commencement of fumigation, warning signs shall be posted in plainly visible locations on or in the immediate vicinity of all entrances to the space under fumigation and shall not be removed until fumigation and ventilation has been completed and the premises determined safe for reoccupancy. Ventilation shall be conducted with due regard for the public safety.

(d) Local police, fire, and health authorities shall be notified prior to introduction of the fumigant and at the time the structure is released for occupancy.

(e) The space to be fumigated shall be vacated by all occupants prior to the commencement of fumigation. The space to be fumigated shall be sealed in such manner to assure concentration of the fumigant released has been retained in compliance with the manufacturer's recommendations.

(f) Warning signs shall be printed in red on white backgrounds and shall contain the following statement in letters not less than two inches in height: "Danger—Fumigation." They shall also depict a skull and crossbones, not less than one inch in height, the name of the fumigant, the date and time fumigant was introduced, and the name, address, and telephone number where the licensee performing the fumigation may be reached 24 hours a day.

(g) On any structure that has been fumigated, the licensee who performed the fumigation shall, immediately upon completion, post a durable sign adjacent to the electric meter or hot water heater. This shall be a durable sign not less than one inch by two inches in size. It shall have the name of the licensee, date of fumigation, type of fumigant used, and the purpose for which it was fumigated (target pest).

(h) A licensee performing fumigation shall use adequate warning agents with all fumigants which lack such properties. When conditions involving abnormal hazards exist, the person exercising direct on-site supervision shall take such safety precautions in addition to those prescribed to protect the public health and safety.

(i) The licensee shall also post person or persons as a security guard at the location from the time the fumigant is introduced until released for occupancy.

(j) For the purpose of maintaining proper safety and establishing responsibility in handling the dangerous gases used in fumigation, the licensee shall compile and retain for a period of at least two years a report for each fumigation job and/or treatment. The report for each fumigation job or treatment shall contain the following information:

- (1) name and address of pest control company;
- (2) name and address of property and owner;
- (3) type of structure as to details of roofing;
- (4) cubic feet fumigated;
- (5) target pest or pest controlled;
- (6) kind of fumigant or fumigants used and amount;
- (7) name of warning agent and amount used;
- (8) type of sealing method;
- (9) weather conditions as to temperature and wind;
- (10) time gas introduced and ventilated (date and hour);
- (11) name of licensee (certified applicator);
- (12) list of any extraordinary safety precautions taken;
- (13) time released for occupancy (signed by certified applicator); and
- (14) the date and hour police, fire departments, and health authorities were notified.

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 April 13, 1984.

TRD-844292 David A Ivie
 Executive Director
 Structural Pest Control Board

Effective date: June 1, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 835-4066.

Part XXXI. Texas State Board of Examiners of Dietitians Chapter 711. Dietitians Licensure

22 TAC §§711.1-711.11, 711.13

The State Board of Examiners of Dietitians, with the approval of the Texas Board of Health, adopts new §§711.2-711.5, 711.7-711.10 and 711.13, with changes, and new §§711.1, 711.6, and 711.11

without changes, to the proposed text published in the January 31, 1984, issue of the *Texas Register* (9 TexReg 564). The new rules cover the licensure and regulation of dietitians. Section 711.12 is reserved for procedures on complaints and violations and is being adopted on an emergency basis and simultaneously proposed in this issue of the *Texas Register*.

These rules implement the requirements of the Texas Licensed Dietitian Act, Texas Civil Statutes, Article 4512h (Senate Bill 671, 68th Legislature, 1983, effective September 1, 1983.)

These rules include the general procedures governing the operation of the Texas State Board of Examiners of Dietitians, a fee schedule, a code of ethics, academic and experience requirements for examination and licensure, examination procedures, supervision requirements for provisional licensed dietitians, application, licensing and renewal procedures, procedures for licensing persons with criminal backgrounds, and procedures for conducting formal hearings.

Concerning the rules on the official seal, §711.2(q), a comment was received that the word "concentric" should be added to modify the word "circles" in the description of the seal. The board agrees, and the word has been added.

Concerning the rules on the profession of dietetics, §711.3(b), a comment was received that the words "food service" have been modernized and combined into one word, "foodservice." The board has incorporated the modern term into these rules.

Concerning the academic requirements for examination and licensure, §711.4(c)(2), and application procedures, §711.7(c)(4), one commenter stated that requiring registered dietitians (R.D.'s) to submit official transcripts following the initial licensing period was redundant, since the academic standards set by the Commission on Dietetic Registration meet or exceed the academic requirements set out in the Act and the board rules. The board agrees with the comments and has extended the provisions beyond the initial licensing period which deem R.D.'s to meet the academic requirements and waive the required submission of official transcripts.

Concerning the experience requirements for examination and licensure, §711.5(b)(2), one commenter stated an objection to the requirement that participants in board approved preplanned professional experience programs be provisionally licensed dietitians, since the Licensed Dietitian Act is a voluntary licensing program. The board agrees with this comment and has deleted that wording.

Two other comments were received concerning the documentation required by the board for preplanned professional experience programs and internships, §711.5(b)(2)(B) and §711.5(c)(1).

(1) The endorsements which must be provided after September 1, 1984, would be duplicative for R.D.'s since the Commission on Dietetic Registration (CDR) requires endorsements to qualify for registration. The board agrees with the comment and has pro-

vided additional wording in the rules which deletes the requirement for the endorsements for applicants who are R.D.'s at the time of making application to the board.

(2) During the initial licensing period, this rule does not indicate that documentation of satisfactory completion of a preplanned professional experience program or internship in the field of dietetics be submitted on the properly completed forms. The board agrees with the comment and has provided additional wording in this rule to clarify that documentation must be submitted with the application

Another comment was received concerning the definition of "internship." The board's definition of preplanned professional experience program includes those approved by the board or the American Dietetic Association (ADA); however, only internships approved by the association were included in the definition of internships. The board agrees with the comment and has provided wording to include internships approved by the board or the ADA

Concerning the rules on application procedures, §711.7(b)(4), a comment was received that the executive secretary should be the one to send the notice listing the additional application materials required to each applicant, rather than the board. The board agrees with the comment and has changed the wording

Two comments were received concerning the specific information requested on the application in §711.7(c)(1)(A): In addition to the month of birth, the day of birth is also needed for the automated data processing program utilized by the board, and information on misdemeanor convictions should be requested on the original application, as it is on the renewal application form. The board agrees with both comments and has added the wording to this section

Another comment was received concerning §711.7(c)(1)(E). The statement signed by the applicant should also include a provision for the return of the license identification card, as well as the license, upon the suspension or revocation of the license. The board agrees with the comment and wording has been provided to include that the license certificate and the license identification card must be returned to the board upon suspension or revocation of the license

Other comments were received concerning the internship or preplanned professional experience documentation form, §711.7(c)(2)(D), (E), and (F). The number of clock hours per week provided during the inclusive dates of the program should also be documented, the documentation form should only be required for those applicants who are not registered by the Commission on Dietetic Registration, and the required endorsements should come from any person(s) who can formally attest to the applicant's successful completion of the experience program rather than limiting it to the program directors or coordinators. The items required on the form must be flexible so that the supervising dietitians (§711.5(b)(2)), or program director(s) or coordinator(s) (§711.5(b)(3)) may sign the form, de-

pending on the type of preprofessional training program undertaken. The board agrees with all the comments and has provided additional wording in the rules.

Another comment was received concerning the length of time between submission of application materials and the board's approval of the application, during the initial licensing period. The board meets twice per year according to law, yet needs to approve applications and issue licenses on an ongoing basis. The board considered the comment and, for administrative purposes during the initial licensing period, has delegated the application approval procedures to a committee of the board. Wording has been added to provide for this change in §711.7, relating to application procedures.

Concerning the examinations for dietitian licensure, §711.8, a comment was received that the examination given by the Commission on Dietetic Registration (CDR) is an examination administered by a national testing service. Thus, the board should include in its rules a provision to utilize the examination given by the testing service designated by the CDR. The board agrees with the comment and has changed the wording

Concerning the rules on licensing, §711.9(b)(1), a comment was received that the executive secretary, rather than the board, should be the person to send the licensure forms to those applicants whose applications have been approved, rather than the board. The board agrees with the comment and has changed the wording

Concerning license renewal, §711.10, a comment was received which suggested that the license renewal procedures be clarified to include more specificity on the procedures for license renewal and late renewal. The board agrees, and has amended §711.10 by providing more specificity in the procedures

Concerning formal hearings, §711.13, a comment was received that subsection (i)(10) needed to be clarified as to how agreements in writing are to be dictated into the record. The board agrees and has provided additional wording to clarify the procedure.

One commenter objected to the fees and the licensing program in general. The board has adopted fees and licensing procedures because the Licensed Dietitian Act requires the adoption of fees and licensing procedures. Therefore, the board has not accepted the comments for consideration or rule change

The following organizations commented on the rules: Texas Dietetic Association, and Fort Worth Dietetic Association.

The comments generally supported the rules, however, there were some concerns and questions expressed about specific parts of the rules

The rules are adopted under the Licensed Dietitian Act, Texas Civil Statutes, Article 4512h, §6, which authorizes the Texas State Board of Examiners of Dietitians, with the approval of the Texas Board of Health, to adopt rules to implement the Act.

§711.2. *The Board's Operation.*

(a) Purpose. This section sets out the organization and administration and other general procedures and policies governing the operation of the board.

(b) Officers.

(1) Chairman.

(A) The chairman shall preside at all board meetings at which he or she is in attendance and perform all duties prescribed by law or board rules.

(B) The chairman is authorized by the board to make day-to-day minor decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.

(2) Vice-chairman.

(A) The vice-chairman shall perform the duties of the chairman in case of the absence or disability of the chairman.

(B) In case the office of chairman becomes vacant, the vice-chairman will serve until a successor is elected.

(c) Meetings.

(1) The board shall hold at least two regular meetings and additional meetings as necessary during each year ending on August 31, at such designated date, place, and time as may be determined by the chairman.

(2) Special meetings may be called by the chairman at such times, dates, and places as become necessary for the transaction of board business.

(3) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(d) Quorum. A quorum of the board necessary to conduct official business is five members.

(e) Transaction of official business

(1) The board may transact official business only when in a legally constituted meeting with a quorum present.

(2) The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is in pursuance of specific instructions of the board.

(3) Board action shall require a majority vote of those members present and voting.

(f) Policy against discrimination. The board shall make decisions in the discharge of its statutory authority without discrimination based on any person's race, creed, sex, religion, national origin, geographical distribution, age, physical condition, or economic status.

(g) Impartiality. Any board member who is unable to be impartial in any proceeding before the board, such as that pertaining to an applicant's eligibility for licensure or a complaint against or a violation by a licensee, shall so declare this to the board and shall not participate in any board proceedings involving that individual.

(h) Attendance

(1) The policy of the board is that members will attend regular and committee meetings as scheduled.

(2) The board may report to the governor and the Texas Sunset Advisory Commission the attendance records of members.

(i) Reimbursement for expenses

(1) A board member is entitled to a per diem payment at the rate set by the legislature for state employees in the latest General Appropriations Act passed by the Texas Legislature.

(2) A board member is entitled to compensation for transportation expenses as provided by the latest General Appropriations Act passed by the Texas Legislature.

(3) Payment to board members of per diem and transportation expenses shall be on official state travel vouchers which have been approved by the executive secretary.

(4) Requests for out-of-state travel for board activities must be approved by the management and administration of the Texas Department of Health on appropriate forms.

(5) Attendance at conventions, meetings, and seminars must be clearly related to the performance of board duties and show a benefit to the state.

(j) Rules of order. *Roberts Rules of Order Revised* shall be the basis of parliamentary decisions except where otherwise provided by these board rules.

(k) Agendas.

(1) The executive secretary shall prepare and submit to each member of the board, prior to each meeting, an agenda which includes items requested by members, items required by law, old business, and other matters of board business which have been approved for discussion by the chairman.

(2) The official agenda of a meeting shall be filed with the Texas Secretary of State in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(l) Minutes.

(1) Drafts of the minutes of each meeting shall be forwarded to each member of the board for review and comments prior to approval by the board.

(2) After approval by the board, the minutes of any board meeting are official only when affixed with the original signatures of the chairman and the executive secretary.

(3) The official minutes of board meetings shall be kept in the office of the executive secretary and shall be available to any person desiring to examine them during regular office hours.

(m) Official records

(1) All official records of the board including application materials, except files containing information considered confidential under the provisions of the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, shall be open for inspection during regular office hours.

(2) A person desiring to examine official records shall be required to identify himself and sign statements listing the records requested and examined.

(3) Official records may not be taken from board offices; however, persons may obtain photocopies of files upon written request and by paying the cost per page set by the State Purchasing and General Services Commission. Payment shall be made prior to release of the records and may be made by personal check.

(n) Elections.

(1) At the meeting held nearest to August 31 of each odd-numbered year, the board shall elect by a ma-

majority vote of those members present, a chairman, and a vice-chairman.

(2) A vacancy which occurs in the offices of chairman and vice-chairman may be filled by a majority vote of those members present and voting at the next board meeting.

(o) Committees.

(1) The board or the chairman with the approval of the board may establish committees deemed necessary to assist the board in carrying out its duties and responsibilities.

(2) The chairman may appoint the members of the board to serve on committees and may designate the committee chairman.

(3) The chairman of the board may appoint non-board members to serve as committee members on a consultant or voluntary basis, subject to board approval.

(4) Committee chairmen shall make regular reports to the board in interim written reports and/or at regular meetings, as needed.

(5) Committees shall direct all reports or other materials to the executive secretary for distribution.

(6) Committees shall meet when called by the chairman of the committee or when so directed by the board.

(p) Executive secretary.

(1) The executive secretary of the board shall be an employee of the department, designated by the Texas commissioner of health as the administrator of board licensing activities, and shall serve at the direction of the board.

(2) The executive secretary shall keep the minutes of the meetings and proceedings of the board and shall be the custodian of the files and records of the board.

(3) The executive secretary shall exercise general supervision over persons employed in the administration of the Act.

(4) The executive secretary shall be responsible for the investigation of complaints and for the presentation of formal complaints.

(5) The executive secretary shall attend all meetings of the board as a nonvoting participant.

(6) The executive secretary shall handle all correspondence for the board and obtain, assemble, or prepare reports and information that the board may direct, or as authorized or required by the department or other agency with appropriate statutory authority.

(7) The executive secretary shall prepare and recommend to the board plans and procedures necessary to implement the purposes and objectives of the Act.

(8) The executive secretary shall have the responsibility of assembling and evaluating materials submitted by applicants for licensure. Determinations made by the executive secretary are subject to the approval of the board, which shall make the final decisions on the eligibility of all applicants.

(q) Official seal. The official seal of the board shall consist of two concentric circles with the words "Texas State Board of Examiners of Dietitians" circularly arranged about the inner edge of the outermost circle, and in the center of the innermost circle there shall be a five-pointed star, surrounded by the live oak and olive branches common to official state seals.

(r) License certificates.

(1) The board shall prepare and provide to each licensee a license certificate and license identification card which contain the licensee's name, license number, and date of licensure.

(2) Official license certificates shall be signed by the chairman and vice-chairman and be affixed with the seal of the board. Official license identification cards shall bear the signatures of the chairman and the executive secretary.

(3) Any license certificate and license identification card issued by the board remain the property of the board and must be surrendered to the board on demand.

(4) The license certificate must be displayed in an appropriate and public manner as follows:

(A) the license certificate shall be displayed in the primary office or place of employment of the licensee; or

(B) in the absence of a primary office or place of employment, or when the licensee is employed at multiple locations, the licensee shall carry a current board issued license identification card.

(5) Neither the licensee nor anyone else shall display a license certificate or carry a license identification card which has been photocopied or otherwise reproduced.

(6) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by the board.

(s) Registry.

(1) Each year the executive secretary, on behalf of the Board of Health, shall publish a registry of current licensees.

(2) The registry shall include, but not be limited to, the name, preferred mailing address, and telephone number of current licensees.

(3) An original copy of the registry will be available for inspection by licensees and members of the public in the office of the executive secretary. Upon receipt of a written request and payment of a fee, the executive secretary shall furnish at cost a copy to a licensee or member of the public. The cost of a copy of the registry or any portion thereof shall be in accordance with the cost guidelines of the State Purchasing and General Services Commission.

(t) Consumer information. The executive secretary, on behalf of the Board of Health, and with the approval of the board, shall publish information of consumer interest which describes the regulatory functions on the board, board procedures to handle and resolve consumer complaints, and the profession of dietetics. Distribution of consumer information shall follow the department's guidelines for distribution of literature and forms.

(u) Fees.

(1) The board has established reasonable and necessary fees to provide the funds to support the activities listed in paragraphs (2) and (3) of this subsection and other activities required by the Act.

(2) Schedule of fees for licensure as a dietitian:

(A) Application processing fee—\$30;

(B) License fee—\$48 (prorated at \$4.00 per month);

- (C) Renewal fee—\$48;
 - (D) Late renewal fee—\$72 (when renewed within 90 days of expiration date);
 - (E) License renewal penalty fee—\$48 plus all unpaid renewal fees (when license is renewed after 90 days of expiration, but less than two years);
 - (F) License certificate replacement fee—\$10;
 - (G) License identification card replacement fee—\$10;
 - (H) Returned check fee—\$15;
 - (I) Board prepared licensure examination fee—\$60.
- (3) Schedule of fees for licensure as a provisional dietitian:
- (A) Application processing fee—\$30;
 - (B) License fee—\$42 (prorated at \$3.50 per month);
 - (C) Renewal fee—\$42;
 - (D) Late renewal fee—\$63 (when renewed within 90 days of expiration date);
 - (E) License renewal penalty fee—\$42 plus all unpaid renewal fees (when license is renewed after 90 days of expiration but less than two years);
 - (F) License certificate replacement fee—\$10;
 - (G) License identification card replacement fee—\$10;
 - (H) Returned check fee—\$15.
- (4) Fees paid to the board by applicants are not refundable.
- (5) Any remittance submitted to the board in payment of a required fee must be in the form of a personal check, certified check, or money order, except as specified in subsection (e)(2) and (3) of §711.10 of this title (relating to License Renewals).
- (6) The board shall make periodic reviews of its fee schedule and make any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus. Such adjustments shall be through rule amendments.

§711.3. The Profession of Dietetics.

- (a) Purpose. The rules on the profession of dietetics shall be to establish the standards of professional and ethical conduct required of a licensee.
- (b) Dietetics. The term includes without limitation the development, management, and provision of nutritional services, as follows:
- (1) Planning, developing, controlling, and evaluating foodservice systems.
 - (2) Coordinating and integrating clinical and administrative aspects of dietetics to provide quality nutritional care.
 - (3) Establishing and maintaining standards of food production, service, sanitation, safety and security.
 - (4) Planning, conducting and evaluating educational programs relating to nutritional care.
 - (5) Developing menu patterns and evaluating them for nutritional adequacy.
 - (6) Planning layout designs and determining equipment requirements for foodservice facilities.
 - (7) Developing specifications for the procurement of food and foodservice equipment and supplies.

(8) Developing and implementing plans of nutritional care for individuals based on assessment of nutritional needs.

(9) Counseling individuals, families, and groups in nutritional principles, dietary plans, and food selection and economics.

(10) Communicating appropriate diet history and nutritional care data through written record systems.

(11) Participating with physicians and allied health personnel as the provider of nutritional care.

(12) Planning, conducting or participating in, and interpreting, evaluating, and utilizing pertinent current research related to nutritional care.

(13) Providing consultation and nutritional care to community groups and identifying and evaluating needs to establish priorities for community nutrition programs.

(14) Publishing and evaluating technical and lay food and nutrition publications for all age, socioeconomic, and ethnic groups.

(15) Planning, conducting, and evaluating dietary studies and participating in nutritional and epidemiologic studies with a nutritional component.

(c) Provider of nutritional services. A person licensed by the board is designated as a health care provider of nutritional services.

(d) Code of ethics. These rules shall constitute a code of ethics as authorized by §6(b)(1) of the Act.

(1) Professional representation and responsibilities.

(A) A licensee shall not misrepresent any professional qualifications or credentials.

(B) A licensee shall not make any false or misleading claims about the efficacy of any services or methods of treatment.

(C) A licensee shall not permit the use of his/her name for the purpose of certifying that dietetic services have been rendered unless that licensee has provided or supervised the provision of those services.

(D) A licensee shall not promote or endorse products in a manner that is false or misleading.

(E) A licensee shall maintain knowledge and skills required for continuing professional competence.

(F) A licensee shall not abuse alcohol or drugs in any manner which detrimentally affects the provision of nutritional services.

(G) A licensee shall comply with the provisions of the Texas Controlled Substances Act, Texas Civil Statutes, Article 4476-15, and the Texas Dangerous Drug Act, Texas Civil Statutes, Article 4476-14, and any rules of the Board of Health or the Texas State Board of Pharmacy implementing those statutes.

(H) A licensee shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board's executive secretary.

(I) A licensee shall keep his/her board file updated by notifying the executive secretary of changes in preferred mailing address and telephone number

(J) A licensee shall not make any false, misleading, or deceptive claims in any advertisement, announcement, or in competitive bidding.

(2) Professional relationships with clients.

(A) A licensee shall make known to a prospective client the important aspects of the professional relationship including fees and arrangement for payment which might affect the client's decision to enter into the relationship.

(B) A licensee shall not receive or give a commission or rebate or any other form of remuneration for the referral of clients for professional services.

(C) A licensee shall disclose to clients any interest in commercial enterprises which the licensee promotes for the purpose of personal gain or profit.

(D) A licensee shall take reasonable action to inform a client's physician and any appropriate allied health care provider in cases where a client's nutritional status indicates a change in medical status.

(E) A licensee shall provide nutritional services without discrimination based on race, creed, sex, religion, national origin, or age.

(F) A licensee shall not violate any provision of any federal or state statute relating to confidentiality of client communication and/or records.

§711.4. Academic Requirements for Examination and Licensure.

(a) Purpose The purpose of this section is to set out the academic requirements for examination and licensure as a dietitian or provisional licensed dietitian.

(b) General.

(1) The board shall accept as meeting licensure requirements baccalaureate and post-baccalaureate degrees received from American colleges or universities which held accreditation, at the time the degree was conferred, from accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.

(2) Degrees and course work received at foreign colleges and universities shall be acceptable only if such course work could be counted as transfer credit from accredited colleges or universities as reported by the American Association of Collegiate Registrars and Admissions Officers.

(3) The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other means acceptable to the board

(4) The board shall accept no course which an applicant's transcript indicates was not completed with a passing grade or for credit

(5) In evaluating transcripts, the board shall consider a quarter hour of academic credit as two-thirds of a semester hour

(6) In the event that an academic deficiency is present, an applicant may have one year in which to complete the additional course work acceptable to the board before the applicant will be required to pay additional application fees.

(7) Persons applying for licensure must possess a baccalaureate or post-baccalaureate degree, including a minimum of 24 semester hours from the fields of human nutrition, food and nutrition, dietetics, or food systems management, or an equivalent major course of study as may be approved by the board.

(8) A substantial equivalent major course of study shall be defined as either:

(A) a baccalaureate or post-baccalaureate degree including a minimum of 30 semester hours specifically designed to train a person to apply and integrate scientific principles of human nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. Of these 30 semester hours, a minimum of 18 semester hours must be from human nutrition, food and nutrition, dietetics, or food systems management; or

(B) a baccalaureate or post-baccalaureate degree, including a major course of study meeting the minimum academic requirements to qualify for examination by the commission.

(c) Registered dietitians. Those applicants who are registered by the commission are deemed to meet the academic requirements

(d) Initial licensing period. Applicants may satisfy the academic requirements following a baccalaureate or post-baccalaureate degree as set out in subsection (b)(7) and (8) of this section.

§711.5 Experience Requirements for Examination and Licensure as a Dietitian.

(a) Purpose. The purpose of this section is to set out the experience requirements to qualify for the licensing examination under the Act.

(b) Experience requirements for licensure as a dietitian effective on September 1, 1984.

(1) Effective September 1, 1984, applicants for examination must have satisfactorily completed a preplanned professional experience program or internship in the profession of dietetics.

(2) A preplanned professional experience program shall.

(A) receive prior approval from the board or be approved by the association; and

(B) have endorsements submitted from two licensed or registered dietitians who supervised the applicant's experience program, if the applicant is not registered by the commission at the time of making application to the board; and

(C) be completed within five years after commencement of the program, and shall include either:

(i) a preplanned professional experience program as approved by the board on an individual basis following the completion of a baccalaureate or post-baccalaureate degree with a major course of study as specified in the academic requirements of these sections; or

(ii) six months of full-time or 12 months of half-time successful experience in the profession of dietetics following the completion of a post-baccalaureate degree with a major course of study as specified in the academic requirements of these rules; or

(iii) one academic year on a half-time basis of a graduate assistantship in the field of dietetics, as defined in §711.3 of this title (relating to The Profession of Dietetics), in conjunction with a post-baccalaureate degree with a major course of study as specified in §711.4 of this title (relating to the Academic Requirements).

(3) An internship shall:

(A) be defined as either a dietetic internship approved by the board or the association, or a coordinated undergraduate program in dietetics approved by the association; and

(B) have an endorsement submitted from the director of the internship with the application, if the applicant is not registered by the commission at the time of making application to the board.

(4) Documentation of the internship or preplanned professional experience program must be provided to the board by completing the proper documentation form prescribed by the board and returning such to the board.

(c) Experience requirements for licensure as a dietitian before September 1, 1984. Persons making application before September 1, 1984, must have either:

(1) satisfactorily completed a preplanned professional experience program or internship in the profession of dietetics, as set out in subsection (b) of this section, except for (2)(C)(i), which for the purposes of the initial licensing period shall be defined as six or more months of pre-planned professional experience programs as approved by the board on an individual basis following completion of a baccalaureate or post-baccalaureate degree with a major course of study as specified in the academic requirements of these rules, and documented by submitting to the board the properly completed forms, or

(2) been professionally employed with or without compensation in the field of dietetics for not less than three of the 10 years beginning September 1, 1973, through August 31, 1983, and documented by submitting to the board the properly completed forms. Three years shall be defined as not less than a total of 36 months in the 10-year period in which the applicant has been employed a minimum of eight hours per month in the provision of dietetic services, as set out in §711.3(b) of this title (relating to The Profession of Dietetics).

(3) Persons who are registered by the commission on the effective date of the Act or who become so registered before September 1, 1984, are deemed to meet the experience requirements.

§711.7. Application Procedures

(a) Purpose The purpose of this section is to set out the application procedures for examination and licensure

(b) General

(1) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official board forms.

(2) The board will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form. (See fee schedule in §711.2(u) of this title (relating to The Board's Operation)).

(3) The board must receive all required application materials at least 45 days prior to the date the applicant wishes to take the examination.

(4) The executive secretary will send a notice listing the additional materials required to an applicant who does not complete the application in a timely manner. An application not completed within 30 days after the date of the board's notice may be voided.

(5) The board will consider a person who files a completed application form and fee postmarked on or before August 31, 1984, as meeting the deadline for licensure without examination and may complete the processing of the person's materials after that date. A person wishing to meet requirements for licensure without examination must have completed all academic and experience requirements by August 31, 1984.

(c) Required application materials.

(1) Application form. The application form shall contain:

(A) specific information regarding personal data, social security number, birth month and day, place of employment, other state licenses and certifications held, misdemeanor and felony convictions, educational and training background, and work experience;

(B) a statement that the applicant has read the Licensed Dietitian Act and board rules and agrees to abide by them;

(C) a statement by which the applicant holds the board and its agents free from any damage or claim for damage by reason of any action taken in connection with the application, examination, or any other aspect of licensing;

(D) the applicant's permission to the board to seek any information or references it deems fit to determine the applicant's qualifications;

(E) a statement that the applicant, if issued a license, shall return the license certificate and license identification card to the board upon the revocation or suspension of the license;

(F) a statement that the applicant understands that fees submitted in the licensure process are non-refundable;

(G) a statement that the applicant understands that materials submitted in the licensure process become the property of the board and are nonreturnable;

(H) the signature of the applicant which has been dated and notarized.

(2) Internship or preplanned professional experience program documentation form. The board-approved form shall contain:

(A) the applicant's name;

(B) the name and address of the agency, organization or institution where the program was undertaken (a separate form should be used for each one);

(C) the name and job title of the director or coordinator of each program at the time;

(D) the inclusive dates of the program and the number of clock hours per week;

(E) the type of setting, the type of clients served, and the type of work performed.

(F) effective September 1, 1984, for those applicants who are not registered by the commission at the time of making application to the board, the form must also include:

(i) the credentials of the director or coordinator of each program at the time, and

(ii) the signed statement(s) of endorsement from the person(s) who can formally attest to the applicant's successful completion of experience as set out in §711.5(b)(2) and (3) of this title (relating to Experience

Requirements for Examination and Licensure as a Dietitian).

(3) Employment documentation report form for the initial licensing period (expires August 31, 1984). The board-approved employment documentation form for submitting documentation of employment in the field of dietetics for three of the 10 years beginning September 1, 1973, through August 31, 1983, shall contain:

- (A) the name of the applicant;
- (B) the name and address of the agency or institution where the experience was gained (a separate form should be used for each one);
- (C) the number of hours worked each month and the inclusive dates of employment;
- (D) the type of setting, the type of clients served and the type of work performed;
- (E) the applicant's job title during employment; and
- (F) a signed statement of employment verification from the agency(ies) or institution(s) where the experience was gained

(4) Transcripts Applicants must submit official transcript(s) of all relevant college work. Transcripts will not be required for those persons who are registered by the commission.

(5) Other documents. Vitae, resumes, and other documentation of the applicant's credentials may be submitted.

(6) Determination of eligibility. The board shall make the final determination on the eligibility of all applicants. During the initial licensing period, the board may delegate approval of applications for licensing to a committee of the board. All applications shall be ratified at the next regular meeting of the board.

(7) Disapproved applications. A person whose application for licensure has been disapproved may request in writing an informal conference with the board to review its decision on the basis of the materials contained in the application.

§711.8. Examinations for Dietitian Licensure.

(a) Purpose. The section on licensure examination sets out the board's rules governing the administration, content, grading, and other procedures for examination for licensure.

(b) Frequency. The board shall administer licensure examinations at least twice a year or as often as deemed necessary by the board.

(c) Forms of examination. The examination for licensure may be any of the following as prescribed by the board.

- (1) a written examination prepared by the board or its designee,
 - (2) an examination given by the commission or its designee; or
 - (3) any other form of examination prescribed by the board
- (d) Applications for examination

(1) The board shall notify an applicant whose application has been approved at least 30 days prior to the next scheduled examination.

(2) An examination registration form for a scheduled board-prepared examination must be completed and returned to the board by the applicant with the

required fee (unless otherwise instructed by the board) at least 15 days prior to the date of examination.

(3) A form indicating intent to take an examination given by the commission or its designee must be completed and returned to the board by the applicant at least 15 days prior to the date of examination.

(e) Locations.

(1) Written examinations administered by the board will be in Austin, Texas, unless otherwise announced.

(2) Examinations administered by the commission or its designee will be held in locations to be announced by the commission.

(f) Grading.

(1) Licensure examinations administered by the board shall be graded by the board or its designee.

(2) Written examinations administered by the board shall be identified by number and graded anonymously in order to insure impartiality.

(3) Examinations administered by the commission shall be graded by the commission or its designee.

(g) Results.

(1) The executive secretary shall notify each examinee of the results of the board-prepared examination within 30 days of the date of the examination.

(2) If the examination is graded or reviewed by a national or state testing service, the board shall notify each examinee of the examination results within 14 days of the date the department receives the results from the testing service.

(3) If examination results will be delayed for more than 90 days after the examination, the department shall notify each applicant of the reason for delay before the 90th day.

(4) No matter what numerical or other scoring system the board may use in arriving at examination results, the official notice of results to applicants shall be stated in terms of "pass" or "fail."

(h) Failures.

(1) An applicant who fails the examination prescribed by the board may take a subsequent examination after paying the examination fee.

(2) If requested in writing, the board shall furnish an applicant who fails an examination an analysis of performance.

(3) An applicant who fails the examination three times must furnish the board an official transcript from an accredited college or university indicating completed course work taken for credit with a passing grade in the area(s) of weakness determined by analysis of the previous examination(s) before the applicant may again apply for examination.

§711.9. Licensing.

(a) Purpose. The purpose of this section is to set out the licensing procedures of the board.

(b) Issuance of licenses.

(1) The executive secretary will send each applicant whose application has been approved and has passed the examination (if applicable) a licensure form to complete and return with the prorated license fee in the form of a personal or certified check or money order.

(2) Upon receiving an applicant's licensure form and fee, the board shall issue the person a license certifi-

cate and license identification card containing a license number.

(3) The board will replace a lost, damaged, or destroyed license certificate or license identification card upon a written request from the licensee and payment of the license replacement fee. Requests must include a statement detailing the loss or destruction of the licensee's original license or license identification card, or be accompanied by the damaged certificate or card.

(c) Reciprocity. The board shall waive the examination requirement for an applicant who:

(1) holds at the time of application a valid license or certificate as a dietitian issued by another state whose minimum requirements for licensure are equivalent to or exceed the licensing requirements of the board which are in effect at the time of application and with whom the board has entered into a reciprocity agreement; or

(2) is registered at the time of application by the commission as a registered dietitian.

(3) All application materials must be completed and application and license fees must be paid by the applicant.

(4) An applicant applying for licensing by reciprocity must submit a copy of the license or certificate by which the reciprocal licensure is requested and the name and address of the licensing or certifying agency.

(5) The board may contact the issuing agency to verify the applicant's status with that agency at the time of application.

§711.10. License Renewal.

(a) Purpose. The purpose of this section is to set out the rules governing license renewal.

(b) General.

(1) When issued, a license is valid until the licensee's next birth month except as provided by subsection (c)(2) of this section.

(2) A licensee must renew the license annually.

(3) The renewal date of a license shall be the last day of the licensee's birth month.

(4) Each licensee is responsible for renewing the license before the expiration date and shall not be excused from paying additional fees or penalties. However, failure to receive notification from the executive secretary prior to the expiration date of the license will not excuse failure to file for renewal or late renewal.

(5) The board will not renew the license of the licensee who is in violation of the Act or board rules at the time of application for renewal.

(c) Staggered renewals. The board shall use a staggered system for license renewals.

(1) License fees will be prorated when the licensee's initial renewal date occurs less than 12 months after the original date of licensure.

(2) Licenses issued within three months of a licensee's birth month shall be issued for that period of time plus the next full year.

(d) License renewal.

(1) At least 30 days prior to the expiration date of a person's license, the executive secretary shall send notice to the licensee at the address in the board's records of the expiration date of the license, the amount of the renewal fee due and a license renewal form which the licensee must complete and return to the board with the

required renewal fee. The return of the completed renewal form in accordance with the requirements of paragraph (3) of this subsection shall be considered confirmation of the receipt of renewal notification.

(2) The license renewal form for all licensees shall require the provision of the preferred mailing address, primary employment address and telephone number, and category of employment, and misdemeanor and felony convictions. The license renewal form for the provisional licensed dietitian must include a signed statement by the supervising licensed dietitian indicating receipt of the report forms as required in §711.6(b) of this title (relating to Supervision of Provisional Licensed Dietitians).

(3) A licensee has renewed the license when the licensee has mailed the renewal form and the required renewal fee to the executive secretary prior to the expiration date of the license. The postmark date shall be considered as the date of mailing.

(4) The board shall issue to a licensee who has met all requirements for renewal a renewal license identification card and may issue a renewal validation sticker or renewal card to be affixed to, or displayed with the original certificate.

(e) Late renewal.

(1) The executive secretary, by certified mail, shall inform a person who has not renewed a license after a period of more than 30 days after the expiration of the license of the amount of the fee required for renewal and the date the license expired.

(2) A person whose license has expired for not more than 90 days may renew the license by submitting to the executive secretary: the license renewal form; the required renewal fee; and a penalty fee that is one-half of the renewal fee. Payment shall be in the form of a certified check or money order (as specified in §711.2(u) of this title (relating to The Board's Operation)). The renewal is effective if it is mailed to the executive secretary not more than 90 days after the expiration date of the license. The postmark date shall be considered as the date of mailing.

(3) A person whose license has been expired for more than 90 days but less than two years of the expiration date may renew the license by paying to the board the unpaid license renewal fees, plus a late penalty fee that is equal to the renewal fee, in the form of a certified check or money order. The person must submit with the required license renewal form a letter stating the reasons for the failure to make a timely renewal.

(4) A person whose license has been expired two years or more may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

(f) Expiration of license.

(1) A person whose license has expired may not use the title or represent or imply that he has the title of "licensed dietitian" or "provisional licensed dietitian" or use the letters "LD" or "PLD", and may not use any facsimile of those titles in any manner.

(2) A person who fails to renew a license after two years is required to surrender the license certificate and license identification card to the board.

§711.11. Licensing of Persons with Criminal Backgrounds to Be Dietitians and Provisional Dietitians.

(a) Purpose. This section is designed to establish guidelines and criteria on the eligibility of persons with criminal backgrounds to obtain licenses as dietitians or provisional dietitians.

(b) Criminal convictions which directly relate to the profession of dietetics.

(1) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee.

(2) In considering whether a criminal conviction directly relates to the occupation of a licensed dietitian or provisional licensed dietitian, the board shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for licensure as a dietitian or provisional dietitian. The following felonies and misdemeanors relate to the license of a dietitian or provisional dietitian because these criminal offenses indicate an inability or a tendency to be unable to perform as a licensed dietitian or a provisional licensed dietitian.

(i) The misdemeanor of knowingly or intentionally acting as a licensed dietitian or provisional licensed dietitian without a license under §15 of the Act.

(ii) A misdemeanor and/or a felony offense involving moral turpitude.

(iii) A misdemeanor or felony offense under various titles of the Texas Penal Code:

(I) offenses against the person (Title 5);

(II) offenses against property (Title 7);

(III) offenses against public order and decency (Title 9);

(IV) offenses against public health, safety, and morals (Title 10); and

(V) offenses of attempting or conspiring to commit any of the offenses in this subsection (Title 4).

(iv) The misdemeanors and felonies listed in clauses (i)-(iii) of paragraph (2)(B) of this subsection are not inclusive in that the board may consider other particular crimes in special cases in order to promote the intent of the Act and these sections.

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensed dietitian or provisional licensed dietitian. In making this determination, the board will apply the criteria outlined in Article 6252-13c, §4(c)(1)-(7), the legal authority for the provisions of this section.

(c) Procedures for revoking, suspending, or denying a license to persons with criminal backgrounds.

(1) The board's executive secretary will give written notice to the person that the board intends to deny, suspend, or revoke the license after hearing in accordance with the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a,

and the board's formal hearing procedures, §711.13 of this title (relating to Formal Hearings).

(2) If the board denies, suspends, or revokes a license under these rules after hearing, the executive secretary will give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a District Court of Travis County, Texas, for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable.

§711.13. Formal Hearings.

(a) Purpose. This section covers the formal hearing procedures and practices that will be used by the board in handling suspensions and revocations of licenses, probating a license suspension, and reprimanding a licensee. The intended effect of these procedures is to implement the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the relevant sections of the Licensed Dietitian Act, Texas Civil Statutes, Article 4512h, and to make the public aware of these procedures and practices.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Act—The Licensed Dietitian Act, Texas Civil Statutes, Article 4512h.

(2) APTRA—The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(3) Board—The Texas State Board of Examiners of Dietitians.

(4) Contested case—A proceeding in accordance with APTRA and these rules, including, but not restricted to, rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjunctive hearing.

(5) Formal hearing—A formal hearing in accordance with these rules and includes a contested case as defined in these rules and other required formal hearings.

(6) Hearing examiner—An attorney duly designated and appointed by the Texas commissioner of health as requested and approved by the board who conducts formal hearings under these rules on behalf of the board.

(7) Licensee—Any person licensed by the board.

(8) Party—Any person or governmental agency, or any subdivision thereof, or officer or employee of a governmental agency named by the hearing examiner as having a justiciable interest in the matter being considered, or any person or governmental agency, or any subdivision thereof, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.

(9) Person—Any natural person, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(10) Pleading—Any written allegation filed by a party concerning its claim or position.

(c) General.

(1) Initiating a formal hearing. The board on its own motion or on petition or application from a person or party may initiate a formal hearing and shall conduct it in accordance with the provisions in this section. In the event of conflict between APTRA, other state statutes and agency rules, and these rules, the APTRA, other state statutes and agency rules will prevail over these rules.

(2) Location. All formal hearings unless otherwise determined by the board shall be held in Austin, Texas.

(d) Notice.

(1) The hearing examiner shall give notice of the hearing according to the notice requirements of the applicable law or board rules authorizing the hearing. If no such requirements exist, the hearing examiner shall give notice to the parties by personal service or by certified mail return receipt requested. All notices under this subsection must be given not less than 10 days prior to the hearing.

(2) The notice shall contain:

(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 section of the statutes and rules involved;

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

(E) a statement that any party can appear in person or by his/her counsel and be heard. If the board or other party 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 timely written application from a party to the board, a more definite and detailed statement shall be furnished to the party not less than three days prior to the date set for the hearing.

(3) Failure to appear after notice. If a party fails to appear or be represented at a hearing after receiving notice, the hearing examiner may proceed with the hearing or take whatever action is fair and appropriate under the circumstances.

(e) Parties to the hearing.

(1) Justiciable interest. All parties must have a justiciable interest in the proceedings to be designated as parties. All appearances are subject to a motion to strike upon a showing that the party has no justiciable interest in the proceeding.

(2) Duties and privileges of a party. A party has the privilege to participate fully in any prehearing and hearing, to appeal as provided by law and to perform any and all duties and privileges provided by the APTRA and other applicable laws.

(3) Interested persons. Any person not wishing to be designated as a party but desiring only to appear for the purpose of showing support or opposition or to make any general relevant statement showing support or opposition may appear at the hearing and make or file statements.

(4) Time of designation as a party. The hearing examiner shall designate parties prior to final closing of the hearing, and no person will be admitted as a party

later except upon a finding by the hearing examiner of good cause and extenuating circumstances and that the hearing in progress will not be unreasonably delayed.

(5) Different classifications for parties. In their pleadings, parties may classify themselves as applicants, petitioners, respondents, protestants, complainants, etc., but regardless of such classification, the hearing examiner has the authority to determine and designate their true status whenever necessary.

(6) Representation. A party may appear personally and/or be represented by counsel or other authorized representative.

(7) Consolidation of parties. The hearing examiner may require parties of each class of affected persons to select one person to represent them in the proceedings.

(f) Subpoenas.

(1) On the hearing examiner's own motion or on the written request of any party to the hearing, the hearing examiner shall issue a subpoena to the appropriate sheriff or constable to require the attendance of witnesses or the production of documents at the hearing.

(2) There must be a show of good cause for the subpoena, i.e., the witnesses or documents must have information that is relevant and material to the hearing and the subpoena should not result in undue harassment, imposition, inconvenience, or expense to a party to the hearing.

(3) A party or witness may seek to quash the subpoena or move for a protective order as provided in Texas Rules of Civil Procedure, Rule 186b.

(4) Witnesses may be subpoenaed from any place in the State of Texas.

(5) Documents include books, papers, accounts, and similar materials or objects.

(6) The payment of subpoena costs or fees and the failure to comply with a subpoena shall be governed by the APTRA, §14.

(g) Depositions. The taking and use of depositions in any contested case proceeding shall be governed by the APTRA, §14.

(h) Prehearing conferences

(1) In a contested case, the hearing examiner, on his own motion or the motion of a party, may direct the parties, their attorneys or representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of:

(A) the formulation and simplification of issues;

(B) the necessity or desirability of amending the pleadings;

(C) the possibility of making admissions or stipulations;

(D) the procedure at the hearing,

(E) specifying the number of witnesses;

(F) the mutual exchange of prepared testimony and exhibits;

(G) the designation of parties, and,

(H) other matters which may expedite the hearing.

(2) The hearing examiner shall conduct the prehearing conference in such manner and with the necessary authority to expedite the conference while reaching

a fair, just, and equitable determination of any matters or issues being considered.

(3) The hearing examiner shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering the said matters or issues.

(4) Recording orders. Any action taken at the prehearing conference shall be reduced to writing, signed by the parties, and made a part of the record.

(i) The hearing procedure.

(1) The hearing examiner's duties. The hearing examiner shall preside over and conduct the hearing. On the day and time designated for the hearing, the hearing examiner shall.

(A) convene and call the hearing to order;

(B) state the purpose of and the legal authority for the hearing;

(C) announce that a record of the hearing will be made;

(D) outline the procedure and order of presentation that will be followed;

(E) administer oaths to those who intend to testify, and

(F) take any and all other actions as authorized by applicable law and these rules to provide for a fair, just, and proper hearing

(2) Order of presentation.

(A) After making the necessary introductory and explanatory remarks on the purpose, etc., of the hearing, the hearing examiner will begin receiving testimony and evidence from the witnesses.

(B) Each party may present evidence and testimony and cross-examine or ask clarifying questions of any witness who presents evidence or testimony.

(C) In the request for relief or action of any kind, the party seeking such relief or action has the burden of proving entitlement to the same; provided, however, that the order of proceeding may be altered or modified by the hearing examiner either upon agreement of the parties or upon his own motion when such action will expedite the hearing without prejudice to any party.

(D) When the party first proceeding finishes his case, the remaining party or parties will be allowed to present evidence and testimony in the same manner. Each witness is subject to cross-examination and clarifying questions by other participants to the proceedings.

(E) The hearing examiner may limit the number of witnesses whose testimony will be repetitious and the hearing examiner may also establish time limits for testimony so as all viewpoints are given a reasonable opportunity to be expressed.

(F) When the parties have concluded their testimony and evidence, the hearing examiner will ask the audience if any interested person desires to make a statement. If so, the interested person will be allowed to make his statement subject to cross-examination and clarifying questions by any party.

(G) After interested persons make statements or if there are no such statements, the hearing examiner, at his discretion, may allow final arguments or take the case under advisement, note the time, and close the hearing. For sufficient cause, the hearing examiner may hold the record open for a stated number of days for the purpose of receiving additional evidence into the record.

(3) Consolidation. The hearing examiner, upon his own motion or upon motion by any party, may consolidate for hearing two or more proceedings which involve substantially the same parties or issues. Proceedings before the board shall not be consolidated without consent of all parties to such proceedings, unless the hearing examiner finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

(4) Conduct and decorum during the hearing. Every party, witness, attorney, representative, or other person shall exhibit in all hearings proper dignity, courtesy, and respect for the hearing examiner and all other persons participating in or observing the hearing. The hearing examiner is authorized to take whatever action he deems necessary and appropriate to maintain the proper level of decorum and conduct, including, but not limited to, recessing the hearing to be reconvened at another time or place or excluding from the hearing any party, witness, attorney, representative, or other person for such period and upon such conditions as the hearing examiner deems fair and just.

(5) The hearing record. The hearing record will include:

(A) all pleadings, motions, and intermediate rulings;

(B) evidence received or considered;

(C) a statement of matters officially noticed;

(D) questions and offers of proof, objections, and rulings of them;

(E) proposed findings and exceptions;

(F) any decision, opinion, or report by the hearing examiner;

(G) all staff memoranda or data submitted to or considered by the hearing examiner or members of the board who are involved in making the decision.

(6) Recording the hearing.

(A) The hearing examiner shall keep either a stenographic or magnetic tape record of the hearing proceeding. A court reporter may be present to record the hearing.

(B) In those cases when a magnetic tape recording of the formal hearing is made, the board shall make such recording available to any party requesting permission to hear or, with appropriate protective measures, allow such recording to duplicate

(7) Assessing the cost of a transcript.

(A) In the event a court reporter is utilized in the making of the record of the proceedings, the board shall bear the cost of the per diem or other appearance fee for such reporter.

(B) In accordance with the APTRA, §13(g), proceedings, or any part of them, shall be transcribed on written request of any party. The board may pay the cost of the transcript or assess the cost to one or more parties.

(C) In the event a final decision of the board is appealed to the district court wherein the board is required to transmit to the reviewing court a written transcript of the hearing proceeding, or any part thereof, the board may:

(i) require the appealing party to file with the board the original and one copy of such written transcript; or

(ii) acquire such written transcript directly from the court reporter or other person preparing the same and thereafter assess the cost of the original and one copy of such transcript against the appealing party as reimbursement for the cost of same.

(8) Rules of evidence. The hearing examiner, at a hearing, a reopened hearing, or a rehearing will apply the rules of evidence under §14(a) of APTRA and also the following rules:

(A) Consolidation. The hearing examiner may consolidate the testimony of parties or persons if the evidence can be effectively consolidated into one document or the testimony of one witness. The standard by which the hearing examiner should judge this consolidation is whether each party or person can offer unique or new evidence that has not been previously introduced. Any party, under oath, may make an offer of proof of the testimony or evidence excluded through consolidation by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing.

(B) Documentary evidence. Documentary evidence should be presented in its original form but if the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearing examiner may limit those admitted to a number which are typical and representative, and may, at his discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of exhibits, provided, however, that before making such requirement, the hearing examiner shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made. Any party may make an offer of proof of the documents which are excluded by a hearing examiner's decision to remove only typical or representative documents.

(C) Exhibits

(i) Form. Exhibits of documentary character shall be limited to facts material and relevant to the issues involved in a particular proceeding, and the parties shall make a reasonable effort to introduce exhibits which will not unduly encumber the files and records of the board.

(ii) Tender and service. The original of each exhibit offered shall be tendered to the hearing examiner or a designee for identification and shall be offered to the parties for their inspection prior to offering or receiving the same into evidence.

(iii) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification and shall be included in the record under seal.

(iv) After hearing. Unless specifically directed by the hearing examiner, no exhibit will be permitted to be filed in any proceeding after the conclusions of the hearing except in a reopened hearing or a rehearing.

(D) Admissibility of prepared testimony and exhibits. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially, evidence may be received in written form. The prepared

testimony of a 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 as a true and accurate record of what his testimony would be if he were to testify orally. The witness shall be subject to clarifying questions and to cross-examination and his prepared testimony shall be subject to a motion to strike either in whole or in part.

(E) Offer of proof. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the board. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections to questions asked on cross-examination may be preserved without making an offer of proof.

(F) Official notice. Official notice by the hearing examiner of the board shall be governed the APTRA, §14(q). Further, official notice may be taken of any statute, ordinance, or duly promulgated and adopted rules or regulations of any governmental agency. The examiner shall indicate during the course of a hearing that information of which he will take official notice. When an examiner's findings are based upon official notice as a material fact not appearing in the evidence of record, the examiner shall set forth in his proposal for decision those items with sufficient particularity so as to advise the parties of the matters which have been officially noticed. The parties shall have the opportunity to show to the contrary through the filing of exceptions to the examiner's proposal for decision.

(9) Informal disposition of case. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(10) Agreements in writing. No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, dictated into the record during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate away any right or privilege afforded by these rules.

(J) Action after the hearing.

(1) Reopening of hearing for new evidence.

(A) The hearing examiner, on behalf of the board, may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.

(B) The hearing examiner, on behalf of the board, will reopen a hearing to include such new evidence as part of the record if the hearing examiner, on behalf of the board, deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.

(C) Notice and procedural requirements will be the same as for the original hearing.

(2) Proposal for decision

(A) If a proposal for decision to the board is necessary under the APTRA, §15, the hearing examiner shall prepare the proposal and provide copies of the same to all parties.

(B) Each party having the right and desire to file exceptions and briefs shall file them with the hearing examiner within the time designated by the hearing examiner.

(C) Parties desiring to do so shall file written replies to these exceptions and briefs as soon as possible after receiving same, and with the time designated by the hearing examiner.

(D) All exceptions and replies to them shall be succinctly stated.

(3) At any time after the record has been closed in a contested case, and prior to the administrative decision becoming final in such case, all briefs, exceptions, written objections, motions (including motion for rehearing), replies to the foregoing, and all other written documents shall be filed with the hearing examiner; and further, the party filing such instrument shall provide copies of the same to all other parties of record by first class U.S. mail or personal service and certify, in writing thereon, the names and addresses of the parties to whom copies have been furnished, as well as the date and manner of service

(4) Final orders or decisions

(A) The final order or decision will be rendered by the board.

(B) All final orders or decisions shall be in writing and shall set forth the findings of fact and con-

clusions required by law, either in the body of the order or by reference to an examiner's proposal for decision.

(C) Unless otherwise permitted by statute or by these sections, all final orders shall be signed by the executive secretary and the chairman of the board; however, interim orders may be issued by the hearing examiner in accordance with his order of appointment

(D) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(5) Motion for rehearing A motion for rehearing shall be governed by the APTRA, §16, or other pertinent statute and shall be addressed to the executive secretary of the board and filed with the hearing examiner

(6) All appeals from final board orders or decisions shall be governed by the APTRA, §19 and §20, or other pertinent statute and communications regarding any appeal shall be to the executive secretary of the board.

(k) *Ex parte* consultations. All matters regarding *ex parte* consultations shall be governed by the provisions of the APTRA, §17.

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 April 17, 1984

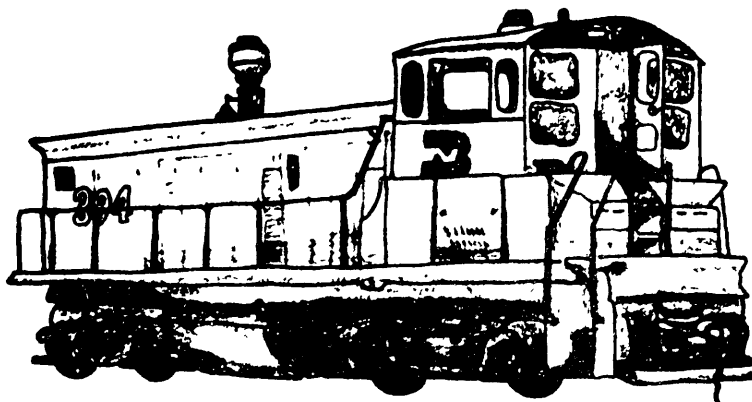
TRD-844299

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

Effective date May 8, 1984

Proposal publication date January 31, 1984

For further information, please call (512) 458-7531.



TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 97. Communicable Diseases
Federal Laws and Regulations on
Communicable Diseases

The Texas Department of Health adopts amendments to §97.21 and the repeal of §97.22, without changes to the proposed text published in the February 28, 1984, issue of the *Texas Register* (9 TexReg 1194)

A new subsection (b) is added to §97.21 to show the availability of copies of the law which is adopted by reference in subsection (a) of the rule. Section 97.22 adopts by reference federal regulations on communicable diseases. The section is no longer necessary because it has been replaced by individual rules on the state level adopted by the Texas Board of Health. Those are §§97.31-97.47, covering immunization requirements in child-care facilities, §§97.61-97.77, covering immunization requirements in Texas elementary and secondary schools and institutions of higher

education; and §§97.131-97.136, covering venereal disease.

The amendment to §97.21 shows the availability of copies of the federal law, and the repeal deletes §97.22, which adopts by reference federal regulations on communicable diseases

No comments were received regarding adoption of the amendments

25 TAC §97.21

The amendments are adopted under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which authorize the Texas Board of Health to adopt rules to implement duties imposed on the board by law.

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 April 17, 1984.

TRD 844305 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984
Proposal publication date February 28, 1984
For further information, please call (512) 458-7304.

25 TAC §97.22

The repeal is adopted under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which authorize the Texas Board of Health to adopt rules to implement duties imposed on the board by law.

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 April 17, 1984

TRD-844306 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984
Proposal publication date February 28, 1984
For further information, please call (512) 458-7304.

Chapter 337. Water Hygiene

The Texas Department of Health adopts the repeal of §§337.111-337.115, concerning bacteriological analysis of drinking water; §337.131, concerning the water works operation monthly report; §337.141, concerning chemical analysis; and §§337.151-337.167, concerning minimum acceptable operating practices for public drinking water systems, without changes to the proposed text published in the February 28, 1984, issue of the *Texas Register* (9 TexReg 1196).

These sections are repealed because they have been incorporated into other agency rules concerning water hygiene. Sections 337.111-337.115 and 337.141 have been incorporated into §§337.1-337.17, concerning drinking water standards governing drinking water quality and reporting requirements for public water supply systems. Sections 337.131 and 337.151-337.167 have been incorporated into §§337.201-337.211, concerning public water systems.

A few comments were received from individuals. The commentators wanted assurances that the other department rules covering water hygiene would not be affected by the repeal. The department's response is that the other water hygiene rules will not be affected by the repeal.

No groups or associations commented on the proposal.

**Bacteriological Analysis of Drinking
Water**

25 TAC §§337.111-337.115

The repeals are adopted under Texas Civil Statutes, Article 4477-1, §23(b), which authorize the Texas Board of Health to adopt rules covering water hygiene in Texas

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 April 17, 1984

TRD-844308 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984
Proposal publication date February 28, 1984
For further information, please call (512) 458-7533

Water Works Operation Monthly Report

25 TAC §337.131

The repeal is adopted under Texas Civil Statutes, Article 4477-1, §23(b), which authorize the Texas Board of Health to adopt rules covering water hygiene in Texas

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 April 17, 1984

TRD-844321 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984
Proposal publication date February 28, 1984
For further information, please call (512) 458-7533

Public Drinking Water Supply

25 TAC §337.141

The repeal is adopted under Texas Civil Statutes, Article 4477-1, §23(b), which authorize the Texas Board of Health to adopt rules covering water hygiene in Texas

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 April 17, 1984

TRD-844322 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984

Proposal publication date February 28, 1984

For further information, please call (512) 458-7533.

Minimum Acceptable Operating Practices for Public Drinking Water Systems

25 TAC §§337.151-337.167

The repeals are adopted under Texas Civil Statutes, Article 4477-1, §23(b), which authorize the Texas Board of Health to adopt rules covering water hygiene in Texas

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 April 17, 1984

TRD-844323 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 8, 1984

Proposal publication date February 28, 1984

For further information, please call (512) 458-7533.

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part I. General Land Office Chapter 11. Legal Division Oil and Gas Leases, Mineral Classified Lands

31 TAC §11.12

The General Land Office adopts amendments to §11.12, with changes to the proposed text published in the February 24, 1984, issue of the *Texas Register* (9 TexReg 1139).

The amended section provides more efficiency in the filing process. The section is designed to provide incentives to timely file assignments and dispense with the burdensome and expensive requirement to file "in-lieu" assignments

The section requires assignments of Relinquishment Act leases and leases administered by the School Land Board to be filed within 90 days of the last execution date shown on the assignment. Assignments filed late incur double in the prescribed filing fee. "In-lieu" assignments will no longer be filed

The comments received objected to the amended section on the basis that forfeiture was too harsh a penalty and not authorized by statute. Other objections were that the amended section put increased burdens on lessees, and that the 90-day filing requirement for Relinquishment Act leases conflicts with the statutes. Others pointed out the inconsistencies between the fees for filing assignments on lands administered by the School Land Board and the fees for assignments on lands of state agencies, departments, boards, and Texas A&M and Texas Tech universities. It was also pointed out that an error exists in the proposed text in paragraph (d)(1) where it begins "Partial payments." The proposed text should have read "Partial assignments." Sun Exploration and Atlantic Richfield Company commented in favor of the amended section. Mesa Petroleum was not really for or against. Martin Allday, Lynch, Chappell, Allday and Allsup, and Texaco, Inc., commented against the amended section

Although forfeiture for failure to file assignments may be a harsh penalty, the Texas Natural Resources Code, §52.176, specifically provides for such action. The amended section should decrease the burdens of lessees, if only because "in lieu" assignments are no longer necessary. Assignees will no longer be required to reexecute, rerecord, and resubmit assignments for filing and the time, trouble, and expense of that procedure will be saved. The inconsistencies were created by statute, and the section merely tracts the statutory language. The 90-day filing requirement for Relinquishment Act lease assignments does not conflict with any provision in the Relinquishment Act, and is consistent with the authority of the commissioner to promulgate rules. The agency is correcting the error in the proposed text

The amendments are adopted under the Texas Natural Resources Code, §31.051, which authorizes the commissioner to promulgate rules and leases under the Texas Natural Resources Code, Chapter 52. The amendments are designed to aid in the efficient administration of leases. The commissioner is authorized to forfeit leases if assignments are not filed under authority of the Texas Natural Resources Code, §52.176.

§11.12. Assignments.

(a) Relinquishment Act leases, and oil and gas leases administered by the School Land Board.

(1) A lessee may assign an oil and gas lease at any time. However, the assignment must be recorded in each county in which all or part of the lease is located.

An original recorded assignment or a certified copy of each assignment shall be filed in the General Land Office within 90 days after the execution of the assignment, accompanied by the prescribed filing fee pursuant to §1.91 of this title (relating to Fees) for each lease or file affected.

(2) If any such assignment is not filed within 90 days after its execution, a late filing fee in an amount equal to double the prescribed filing fee shall be paid at the time the assignment is filed in the General Land Office. If an assignment has not been timely filed, the rights acquired under such lease shall be subject to forfeiture at the discretion of the commissioner of the General Land Office.

(3) For the purposes of this section, the date of execution in the case of multiple execution dates is the last date of execution as shown by the instrument.

(4) In-lieu assignments will not be accepted or filed in the records of the General Land Office.

(b) Oil and gas leases of lands of state departments, boards, and agencies. All rights may be assigned. All assignments must be recorded in the county or counties where the area is located, and the recorded assignment or a certified copy of the same shall be filed in the General Land Office within 100 days from the date of the first acknowledgment accompanied by \$.10 per acre for each acre assigned and the prescribed filing fee; and, if not so filed and payment made, the assignment shall not be effective.

(c) Oil and gas leases of lands of Texas A&M, Texas A&I University, and Texas Tech University. All rights purchased may be assigned. All assignments shall be filed in the General Land Office within 100 days from the date of first acknowledgment, accompanied by \$.10 per acre for each acre assigned and the prescribed filing fee; and if not so filed and payment made, the assignment shall not be effective. Assignments of leases of lands of Texas A&M University may be made only with the consent of lessor. Either the original recorded assignment or a certified copy may be so filed.

(d) Partial assignments of oil and gas leases.

(1) Partial assignments of oil and gas leases shall be filed in the same manner as complete assignments.

(2) Horizontal assignments of oil and gas leases covering state fee lands administered by the School Land Board, and/or those issued by any state department, board, or agency shall be filed in the General Land Office; however, the assignor of any horizontal assignment will remain liable to the state in the event of a breach of any covenant and/or condition of the lease.

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 April 18, 1984

TRD-844342 Garry Mauro
Commissioner
General Land Office

Effective date May 9, 1984
Proposal publication date: February 24, 1984
For further information, please call (512) 475-5661.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 3. Aid to Families with Dependent Children

Deprivation of Parental Support

40 TAC §3.2714

The Texas Department of Human Resources (DHR) adopts an amendment to §3.2714, without changes to the proposed text published in the February 7, 1984, issue of the *Texas Register* (9 TexReg 672).

The amendment clarifies when the DHR pays for reexamination of a client who is denied AFDC benefits because the client does not meet the definition of incapacity.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 31, which authorizes the department to administer public assistance programs.

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 April 17, 1984.

TRD-844326 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Effective date: May 8, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 441-3355, ext. 2037

Chapter 9. Food Stamps Subchapter II. Resources

40 TAC §9.3404

The Texas Department of Human Resources (DHR) adopts an amendment to §9.3404 in its Food Stamp Program rules concerning resources that are not considered in determining eligibility. The amendment is adopted based on recent federal statutes that change resource determinations for Indians. Section 9.3404 is amended to exempt payments of \$2,000 or less to individual Indians, if the payments are from funds held in trust for them by the secretary of interior.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorizes the department to administer public assistance programs. The amendment is adopted under federal requirements effective August 2, 1983.

§9.3404. *Exempt Resources.* Only the following are not considered household resources in determining eligibility.

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

(8) Native and Indian claims.

(A) Payments received under the Alaska Native Claims Settlement Act or the Sac and Fox Indian Claims Agreement are exempt as resources. Payments to the Grand River Band of Ottawa Indians (Public Law 94-540) and payments to the Passamaquoddy tribe and the Penobscot nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 94-420, §5) are also excluded from resources.

(B) Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache tribe of the Mescalero reservation from the Indian Claims Commission as designated under Public Law 93-433, §2, are exempt as resources.

(C) Payments of \$2,000 or less to individual Indians from funds held in trust for them by the secretary of interior are exempt from resources (Public Law

97-458, 96 Statute 2512, and Public Law 98-64, 97 Statute 365). For larger payments, the worker considers as a resource the amount in excess of \$2,000. This exemption includes:

(i) interest and investment income accrued while the funds are held in trust,

(ii) purchases made with these funds, and

(iii) accounts in banks or other financial institutions where these funds are deposited

(9)-(19) (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 April 17, 1984

TRD-844327

Marlin W Johnston
Commissioner
Texas Department of Human
Resources

Effective date: August 2, 1983

Proposal publication date N/A

For further information, please call (512) 441-3355,
ext. 2037.

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

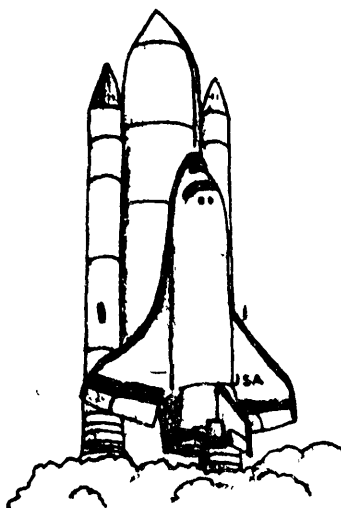
All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Department of Agriculture

Tuesday, April 24, 1984, 10 a.m. The Agricultural Development Board of the Texas Department of Agriculture will meet in emergency session in Room 1033, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider the description of the feed mill and feed lot project in Dimmitt and decide preliminarily whether the project is eligible for financing under the Agricultural Development Bond Program; and receive an update on the U.S. Senate and House tax bills and their effect on the bond program and consider taking official action prior to conference committee efforts to reconcile the two bills. The emergency status is necessary to meet the project users' inducement and construction time deadlines and to decide what action, if any, should be taken by the board in time for conference committee action on tax bills.

Contact: Katie Bond, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: April 18, 1984, 1:36 p.m.
TRD-844353



Texas Animal Health Commission

Friday, May 4, 1984, 9 a.m. The Texas Animal Health Commission will meet in the first floor conference room, 210 Barton Springs Road, Austin. According to the

agenda summary, the commission will conduct an administrative hearing concerning David Maresh, approve actions of the executive director and the minutes, consider reports by the Finance Committee of the Information Review Committee, conduct a hearing to adopt amendments to 4 TAC §35.6, concerning the Texas bovine brucellosis regulations, view a presentation by the Brucellosis Committee of the Texas Veterinary Medical Association, hear a report of a preliminary study on interstate regulations and card test regulations, consider amending scabies and interstate regulations to use Ivermectin by emergency measures, and consider recommendations of the Texas Poultry Federation Task Force, petitions of Grayson and Denton Counties for inclusion in the Class B brucellosis area, a presentation by Milton Ward and Cecil Ward, and the presentation of a resolution. The commission also will meet in executive session.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78711, (512) 475-4111

Filed: April 18, 1984, 4:50 p.m.
TRD-844393

State Banking Board

Wednesday, April 25, 1984, 2 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda, the board will hold a voting session to include charter applications for the Bank of Leon Springs, Leon Springs, Security Bank of Arlington, Arlington; and interim charter applications for new Summit Bank, San Antonio, new Med Center Bank, Houston, new Moran Bank, Moran, new San Marcos Bank, San Marcos, new Georgetown Bank, Georgetown, interim Corpus Christi American Bank, Corpus Christi, and new Electra Bank, Electra; domicile changes for Wynnewood Bank and Trust, Dallas, the First State Bank, Hallsville, Allied Mission Bend Bank, Houston, the First State Bank of Kerens, Kerens, Smiley State Bank, Smiley, and Collin County State Bank, Melissa (in organization); rescission of domicile changes previously approved for Frontier State Bank, Eagle Pass, and Cullen Center Bank and Trust, Houston; and a review of applications approved, but not yet open for business

Contact: O. A. Cassity III, 2601 North Lamar Boulevard, Austin, Texas, (512) 475-4451

Filed: April 17, 1984, 3:49 p.m.
TRD-844325

State Bar of Texas

Thursday, April 26, 1984, noon The Executive-Budget Committee of the State Bar of Texas will meet in the Oak Lawn Room, Melrose Hotel, 3015 Oak Lawn, Dallas. According to the agenda summary, the committee will hear a report from the president; reconsider the Professional Development Standing Committee; hear a report on computerization of the general counsel's office and review the bar's computer needs; discuss budgetary matters; hear reports of the executive director, president-elect; immediate past president, board chairman, Supreme Court liaison, and general counsel; hear reports on the use of parking and meeting facilities of the Texas Law Center and items for Executive Committee consideration from the Professional Development Standing Committee; discuss the policy manual; hear a legislative report; and consider books and systems, concerning ratification of a contract on family law disks.

Contact: Evelyn Avent, 1414 Colorado Street, Austin, Texas 78711, (512) 475-4746.

Filed: April 18, 1984, 2:58 p.m.
TRD-844387

State Depository Board

Tuesday, May 1, 1984, 11 a.m. The State Depository Board will meet in the Office of the State Treasurer, LBJ Building, 111 East 17th Street, Austin. According to the agenda, the board will consider depository applications received and hear an administrative report by the treasury staff.

Contact: Jorge Gutierrez, P.O. Box 12608, Austin, Texas 78711, (512) 475-2591.

Filed: April 18, 1984, 3:21 p.m.
TRD-844389

East Texas State University

Wednesday, April 25, 1984, 10 a.m. The Finance and Investment Committee of the Board of Regents of East Texas State University (ETSU) will meet at the Sheraton-Mockingbird Hotel, 1893 West Mockingbird Lane, Dallas. According to the agenda, the board will consider the summer budget for ETSU-Commerce, budgets for the 1984-1985 academic year for ETSU Commerce and ETSU-Texarkana, changes in the ETSU-Commerce and ETSU-Texarkana 1984-1985 operating budgets, end-of-year budget transfers, fee schedules for ETSU-Commerce and ETSU-Texarkana, and a motion to delete surplus equipment from the inventory

Contact: Steve W. Batson, Commerce, Texas 75428, (214) 886-5012

Filed: April 18, 1984, 2:36 p.m.
TRD-844384

Texas Employment Commission

Wednesday, April 18, 1984, noon. The Texas Employment Commission (TEC) met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission met in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(e), to consult with their attorney regarding Cause 361,027, filed in the 200th District Court of Travis County on April 17, 1984, by Ernie Tullis. The emergency status was necessary because matters on the previously posted agenda for this date as published at 9 TexReg 2174 are affected by the subject suit.

Contact: Patricia Vistein, TEC Building, Room 624, Austin, Texas, (512) 397-4505

Filed: April 18, 1984, 9:45 a.m.
TRD-844341

Office of the Governor

Friday, April 27, 1984, 10 a.m. The Subcommittee on Wellness of the Governor's Task Force on State Employees Health Insurance Quality and Cost Containment of the Office of the Governor will meet in the Institute Room, Texas Hospital Association, 6225 Highway 290 East, Austin. According to the agenda, the subcommittee will receive and discuss progress reports on the wellness plan, advisory groups, baseline data, and other matters relating to the wellness study.

Contact: Evelyn Ireland, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4285

Filed: April 17, 1984, 2:09 p.m.
TRD-844311

Friday, April 27, 1984, 10 a.m. The Subcommittee on Employee Benefits of the Governor's Task Force on State Employees Health Insurance Quality and Cost Containment of the Office of the Governor will meet in the first floor auditorium, Employees Retirement System of Texas, 18th and Brazos Streets, Austin. According to the agenda, the subcommittee will hear reports of the cost containment working group and the benefits working group, discuss and adopt reports, view a presentation on health maintenance organizations, and discuss the draft of a final report to the task force.

Contact: Evelyn Ireland, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4285

Filed: April 17, 1984, 2:09 p.m.
TRD-844312

Monday, April 30, 1984, 10 a.m. The Interagency Council on Economic Development of the Office of the Governor will meet in Room 104, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda, the council will adopt the January 31, 1984, minutes; hear reports by the chairmen of the working groups on state marketing activities and state permitting, discuss present and future agency economic development efforts, and conduct an open discussion.

Contact: Tom Adams, P.O. Box 13561, Austin, Texas 78711, (512) 475-1147

Filed: April 18, 1984, 3:18 p.m.
TRD-844388

**Texas Health Facilities
Commission**

The Texas Health Facilities Commission (THFC) will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. Days, times, and agendas follow.

Thursday, April 26, 1984, 1:30 p.m. According to the agenda summary, the commission will consider the following applications.

Amendment of Certificate of Need
Midland Memorial Hospital, Midland
AH83-0519-516A(031384)

Notice of Intent to Acquire an Existing Health Care Facility/Declaratory Ruling
HCA Health Services of Texas, Inc., a subsidiary of Hospital Corporation of America, Nashville, Tennessee
AH84-0209-083

Notice of Intent to Acquire Major Medical Equipment
Clearlake C.T. Group, Ltd., Webster
AS84-0316-171

Notices of Intent to Acquire Existing Health Care Facilities

All-Tex, Ltd., Richardson
AN84-0314-159
AN84-0314-161
AN84-0314-163
AN84-0314-166

Med West Health Care Management Corporation, Richardson
AN84-0314-160
AN84-0314-162
AN84-0314-164
AN84-0314-165

Amendment of Certificate of Need
Physicians and Surgeons General Hospital, Corpus Christi
AH80-0829-009A(082583)

Applications for Certificate of Need
Brazosport Memorial Hospital,
Lake Jackson
AH83-1229-474

**Walden Square Nursing Center,
San Antonio**
AN83-0630-672

**Heartland of Northeast San Antonio,
San Antonio**
AN83-0803-079

Friday, April 27, 1984, 10 a.m. According to the agenda summary, the commission will consider for publication in the *Texas Register* a repeal of all commission rules dealing with the certificate of need process which is found in the following existing chapters and/or subchapters: Chapter 501; Chapter 503; Chapter 505; Chapter 507; Chapter 509; Chapter 513, Subchapter A

and Subchapter D; Chapter 515, Chapter 517; Chapter 519; Chapter 523; Chapter 525, Subchapter A; and Chapter 527. The THFC will also consider for publication in the *Texas Register* new commission rules dealing with the certificate of need process to be found in the following proposed chapters and/or subchapters: Chapter 501, Chapter 503; Chapter 505; Chapter 507; Chapter 509; Chapter 513, Subchapter A and Subchapter D; Chapter 515; Chapter 517; Chapter 523; Chapter 525, Subchapter A; and Chapter 527

Contact: John R. Neel, P O Box 50049, Austin, Texas 78763

Filed: April 18, 1984, 9:24 a.m.
TRD-844336, 844337

Texas Department of Human Resources

Friday, May 4, 1984, 9 a.m. The Advisory Council for Social Work Certification of the Texas Department of Human Resources will meet in the Caucus Room, Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the council will approve the minutes, hear the director's report and reports of the Subcommittees on Continuing Education and Long-Term Planning, and set the date of the next meeting.

Contact: Michael Doughty, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 6055.

Filed: April 17, 1984, 2:58 p.m.
TRD-844319

State Board of Insurance

Wednesday, April 25, 1984, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a staff report on pending activities.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: April 17, 1984, 4:23 p.m.
TRD-844332

Lamar University

Wednesday, April 18, 1984, 4:30 p.m. The Board of Regents of Lamar University made an emergency revision to the agenda of a meeting held in the board room, Plummer Administration Building, main cam-

pus, Lamar University, Beaumont. According to the agenda summary, the board heard the president's reports and Goleman and Rolfe presentations; confirmed a regents professor; considered regents merit and staff development leaves, approval of room and board rates for 1984-1985, fees for summer courses, and transfer of funds and the monthly financial report; and confirmed promotion and tenure. The board also met in executive session. The emergency status was necessary because this was the only available date to gather a quorum.

Contact: Andrew J. Johnson, P O. Box 10014, Beaumont, Texas 77710, (409) 838-8403.

Filed: April 17, 1984, 3:02 p.m.
TRD-844320

Texas State Board of Medical Examiners

Wednesday, April 25, 1984, 4 p.m. The Executive Committee of the Texas State Board of Medical Examiners will meet at 300 East Travis, San Antonio. According to the agenda, the committee will consider a matter involving a licensee under Texas Civil Statutes, Article 4495b, §4.13. The committee also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

Contact: Jean Davis, 1101 Camino La Costa, Suite 201, Austin, Texas 78701, (512) 452-1078

Filed: April 17, 1984, 2:02 p.m.
TRD-844310

Saturday, April 28, 1984, 12:15 p.m. The Texas State Board of Medical Examiners submitted a revised agenda for a meeting to be held at 300 East Travis, San Antonio. According to the revised agenda, the board will discuss an amendment to a letter to physician assistant supervisors, consider temporary permits, and hear a report on CETEC Medical School.

Contact: Jean Davis, 1101 Camino La Costa, Suite 201, Austin, Texas 78701, (512) 452-1078.

Filed: April 17, 1984, 10:16 a.m.
TRD-844294



Texas Motor Vehicle Commission

Thursday, April 26, 1984, 9:30 a.m. The Texas Motor Vehicle Commission will meet in Suite 302, 815 Brazos Street, Austin. According to the agenda, the commission will consider adoption of the March 7, 1984, minutes and hearing reports in Docket 338 and Docket 340; conduct a general discussion on the review of pending litigation and a financial report, and consider an order of dismissal in Docket 339

Contact: Russell Harding, P O Box 2293, Austin, Texas 78768, (512) 476-3587.

Filed: April 17, 1984, 10:16 a.m.
TRD-844295

Public Utility Commission of Texas

Wednesday, April 25, 1984, 9 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following Dockets: 2567, 4405, 4705, 4737, 5028, 5299, 5303, 5331, 5353, 5354, 5391, 5398, 5403, 5405, 5428, 5429, 5443, 5452, 5467, 5470, 5481, 5524, 5563, 5557, and 5621

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 17, 1984, 3:45 p.m.
TRD-844324

Emergency additions to the above agenda
Revisions of Dockets 5403, 5405, 5481, and 5524 in which the consideration of final order now becomes a motion for rehearing, and Docket 5398, in which there will be no oral argument. The emergency status is necessary because of statutory deadlines

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 18, 1984, 3:21 p.m.
TRD-844391

Consideration of final orders in Docket 5488—application of Northwest Water Systems, Inc., for a rate increase in Harris and Montgomery Counties, Docket 5252—application of Wise Electric Cooperative, Inc., to amend its certificated service area boundaries within Wise County (miscellaneous), Docket 5247—application of Ables Springs Water Supply Corporation to amend its certificate of convenience and necessity within Hunt, Kaufman, and Van Zandt Counties

The emergency status is necessary because of statutory deadlines

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 18, 1984, 3:21 p.m.
TRD-844390

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow

Monday, May 7, 1984, 10 a.m. A rescheduled prehearing in Docket 5655—application of Green Valley Water Supply Corporation for a cease and desist order against the City of Schertz. The prehearing was originally scheduled for April 13, 1984, as published at 9 TexReg 1970

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 17, 1984, 2:02 p.m.
TRD-844313

Tuesday, May 8, 1984, 10 a.m. A rescheduled first prehearing conference in Docket 5593—application of Maxwell Water Supply Corporation to amend its certificate of convenience and necessity within Hays and Caldwell Counties. The prehearing was originally scheduled for April 10, 1984, as published at 9 TexReg 1587

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 17, 1984, 2:02 p.m.
TRD-844314

Monday, June 18, 1984, 9 a.m. A settlement prehearing conference in Docket 5640—application of Texas Utilities Electric Company for a rate increase

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 18, 1984, 9:38 a.m.
TRD-844339

Tuesday, June 19, 1984, 9 a.m. A rescheduled final prehearing conference in Docket 5640—application of Texas Utilities Electric Company for a rate increase. The prehearing was originally scheduled for June 15, 1984, as published at 9 TexReg 1970

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 18, 1984, 9:38 a.m.
TRD-844340

Wednesday, June 20, 1984, 9 a.m. A rescheduled hearing on the merits in Docket 5640—application of Texas Utilities Electric Company for a rate increase. The hearing was originally scheduled for June 19, 1984, as published at 9 TexReg 1970.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 18, 1984, 9:38 a.m.
TRD-844343

Monday, July 9, 1984, 10 a.m. A hearing in Docket 5657—application of Sam Rayburn G&T, Inc., for a rate increase.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: April 17, 1984, 2:01 p.m.
TRD-844315

Texas Rehabilitation Commission

Thursday and Friday, April 26 and 27, 1984, 9:30 a.m. and 9 a.m. respectively. The Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet at 6250 LBJ Freeway, Dallas. According to the agenda summary, the committee will meet on Thursday to discuss employment, media relations and public information, disability barriers, and subcommittee planning, hear reports of chairpersons, the executive director, and the governor's office liaison; consider media relations and public information, recognition and awards, and employment and disability barriers subcommittee reports; approve bylaws, review the tentative subcommittee project budget for the 1984-1985 fiscal year; and discuss a 1986-1987 fiscal year appropriation request and accessible outdoor activity for disabled persons. On Friday the committee will hear reports by mayors and mayor's committee chairpersons of Dallas, Denton, and Fort Worth; consider reports from community programs for disabled persons, including the Association of Individuals with Disabilities, the Dallas Alliance for Business, and Dallas Center for Independent Living; and conduct a public comment period.

Contact: Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: April 17, 1984, 10:16 a.m.
TRD-844296

Friday, April 27, 1984, 9 a.m. The Autism Task Force of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet in Room 202, Texas Law Center, 14th and Colorado Streets, Austin. According to the agenda, the task force will review the draft of a status report, discuss the work plan, and consider other organizational concerns.

Contact: Roger Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8870.

Filed: April 17, 1984, 10:17 a.m.
TRD-844297

Texas Savings and Loan Department

Thursday, April 26, 1984, 9 a.m. The Texas Savings and Loan Department will meet at 1004 Lavaca Street, Austin. According to the agenda summary, the department will conduct a hearing to accumulate a record of evidence in regard to the application of Americana Savings Association for a savings and loan association charter to be located at the Northeast Corner of Hampton and Wintergreen Roads, DeSoto, Dallas County, from which record the commissioner shall determine whether to grant or deny this application.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: April 17, 1984, 4:41 p.m.
TRD-844335

State Securities Board

Wednesday, May 16, 1984, 10 a.m. The Securities Commissioner of the State Securities Board will conduct a rescheduled hearing at 1800 San Jacinto Street, Austin. According to the agenda summary, the hearing will be held for the purpose of determining whether a cease and desist order should be issued prohibiting the sale of securities issued by Pacific Gold Coins Inc., and sold or offered for sale by Walter Green, James "Jim" Eglitis, Sheldon Aleida, and John Williams. The hearing was originally scheduled for April 16, 1984, as published at 9 TexReg 1907.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: April 18, 1984, 9:37 a.m.
TRD-844344

Boards for Lease of State-Owned Lands

Thursday, April 19, 1984, 3 p.m. The Board for Lease of the State Department of Highways and Public Transportation of the Boards for Lease of State-Owned Lands met in emergency session at 1903 River Oaks Boulevard, Houston. According to the agenda, the board approved the previous meeting minutes and considered pooling applications and a request to revise acreage to be pooled. The emergency status was necessary because of a lease expiration date of April 22, 1984.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

Filed: April 18, 1984, 4:30 p.m.
TRD-844392

University Interscholastic League

Friday, May 11, 1984, 10 a.m. The Advisory Committee on Illegal Sex Discrimination of the University Interscholastic League will meet in Room 3.120, Thompson Conference Center, University of Texas campus, 26th and Red River Streets, Austin. According to the agenda summary, the committee will hear input regarding gender-based rules and recommend rules that will be in accordance with all laws and accepted practice.

Contact: Bailey Marshall, P.O. 8028, Austin, Texas 78712, (512) 471-5883

Filed: April 18, 1984, 2:38 p.m.
TRD-844385



Texas Water Commission

Tuesday, April 17, 1984, 2:30 p.m. The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered a request by Diamond Shamrock Corporation and the City of

Three Rivers for an emergency temporary order to deliver treated process wastewater to the City of Three Rivers for irrigation of the city's flood protection levees. The emergency status was due to the request of emergency authorization to prevent overtopping and possible failure of the dikes surrounding the city's wastewater holding lagoons, which would result in significant property damage and possible air and water pollution.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: April 17, 1984, 10:12 a.m.
TRD-844267

Wednesday, May 9, 1984, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider a petition for appointment of substitute temporary directors of Caney Creek Municipal Utility District of Montgomery County and a petition for dissolution of the district under the Water Code, §50.251.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514

Filed: April 18, 1984, 2:24 p.m.
TRD-844386

Monday, June 4, 1984, 9 a.m. The Texas Water Commission will meet in Room 100, Biology-Earth Science Building, Texas A&I University Campus, Kingsville. According to the agenda summary, the commission will consider the following applications.

Application of Uranium Resources, Inc., Suite 735, Promenade Bank Tower, 1600 Promenade Center, Richardson, Texas 75080, to the Texas Department of Water Resources for proposed Permit 02694 to authorize a discharge of aquifer restoration/groundwater plus *in situ* uranium recovery bleed at a volume not to exceed an average flow of 432,000 gallons per day from the Kingsville Dome Plant, an *in situ* uranium mining operation. The applicant proposes to discharge wastewater which has been treated as a part of the aquifer restoration process required by Permit UR-2677 to re-establish groundwater quality in the mine area aquifer.

Application of Uranium Resources, Inc., 735 Promenade Bank Tower, Richardson, Texas 75080, to the Texas Department of Water Resources for proposed Permit UR-02677 to authorize an *in situ* uranium mining permit at its Kingsville Dome Mine, which is located approximately eight miles south of Kingsville, adjacent to FM Road 1118 in Kleberg County. The permit area

for this *in situ* uranium mine is 547 acres within a leased area of 3,333 acres. The applicant has currently identified four mine areas in which production wellfields will eventually be installed. Delineation drilling is expected to continue in the permit area to define additional production areas. The production zone is located in three sand units of the upper Goliad Formation, each approximately 50 feet thick. No surface discharge is authorized by this permit. The applicant has also applied for exempted aquifer status at the proposed *in situ* uranium mine for the Kingsville Dome permit area.

Contact: James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-1317.

Filed: April 17, 1984, 1:52 p.m.
TRD-844316, 844317

Texas Department of Water Resources

Thursday, April 19, 1984, 10 a.m. The Texas Water Development Board of the Texas Department of Water Resources met in emergency session via conference call originating from Room 516, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered the extension of the \$910,000 loan commitment from the water quality enhancement account of the water development fund to the City of Huntington from April 20, 1984, to January 18, 1985. The emergency status was necessary because the commitment would have expired if not considered before April 20, 1984, leaving the city without funds to construct its project.

Contact: Charles E. Nemir, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

Filed: April 18, 1984, 10:09 a.m.
TRD-844346

Regional Agencies Meetings Filed April 17

The Mental Health and Mental Retardation Regional Center of East Texas, Board of Trustees, met in emergency session in the

board room, 2323 West Front Street, Tyler, on April 19, 1984, at 2 p.m. Information may be obtained from Richard J. DeSanto, 2323 West Front Street, Tyler, Texas 75702, (214) 597-1351.

The Region VIII Education Service Center, Board of Directors, will meet at 100 North Riddle, Mount Pleasant, on April 26, 1984, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle, Mount Pleasant, Texas 75455, (214) 572-8551.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on April 25, 1984, at 9 a.m. Information may be obtained from James L. Dunham, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Middle Rio Grande Development Council, Regional Review Committee, will meet at the Zavala County Courthouse, Crystal City, on April 24, 1984, at 1 p.m. Information may be obtained from Emilio Hernandez, P.O. Box 702, Carrizo Springs, Texas, (512) 876-3533.
TRD-844309

Meetings Filed April 18

The Central Texas Council of Governments, Criminal Justice Advisory Council, will meet at 302 East Central, Belton, on April 25, 1984, at 2 p.m. The Executive Committee will meet at the same location on April 26, 1984, at 12:45 p.m. The Central Texas Private Industry Council will meet at the same location on April 26, 1984, at 2 p.m. Information may be obtained from Lindell Bishop or Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1803.

The Dallas Area Rapid Transit Authority, Communications and Community Involvement, met in emergency session at 601 Pacific Avenue, Dallas, on April 20, 1984, at 9:30 a.m. The Service Plan/Work Committee met in emergency session at the same location on the same day at 3:30 p.m. Information may be obtained from Michael Miles, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Dallas County Appraisal District, Appraisal Review Board, will meet at 2601 Live Oak, Dallas, on April 27, 1984, at 9 a.m. Information may be obtained from Shirley Lensky, 2601 Live Oak, Dallas, Texas 75204, (214) 826-1480.

The Deep East Texas Council of Governments, Board of Directors, will meet at the library, 619 Tenaha, Center, on April 26, 1984, at 1:30 p.m. Information may be obtained from Rho: ja Ruckel, P.O. Drawer 1170, Jasper, Texas, (409) 384-5704.

The Heart of Texas Council of Governments, Executive Committee, will meet at 320 Franklin Avenue, Waco, on April 26, 1984, at 12:30 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Lubbock Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet at 3800 Avenue H, Lubbock, on April 24, 1984, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

The Panhandle Regional Planning Commission, Board of Directors, will meet in the first floor conference room, Briercroft Building, Eighth and Jackson Streets, Amarillo, on April 26, 1984, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 377-3381.

The San Jacinto River Authority, Board of Directors, will meet in the Lake Conroe offices, Highway 105 West, Conroe, on April 24, 1984, at 1:15 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, (409) 588-1111.

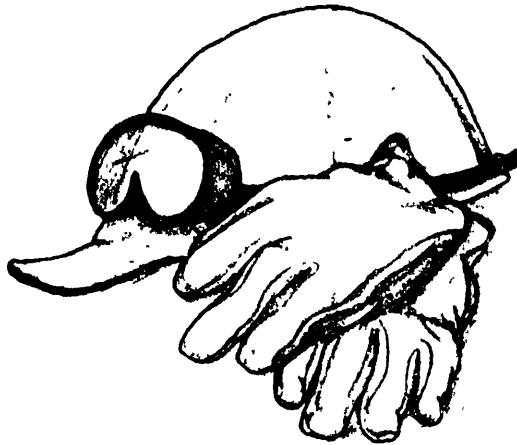
The Swisher County Appraisal District, Appraisal Review Board and Directors, will meet in the meeting room, K-Bob's Restaurant, 219 Southeast Second Street, Tulia, on April 26, 1984, at 7 p.m. Information may be obtained from Rose Lee Powell, 130 North Armstrong, Tulia, Texas 79088, (806) 995-4118.

TRD-844345

In Addition

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission)

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing



Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of April 9-13, 1984

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

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

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

Huber Technology Group, J. M. Huber Corporation, Borger; advanced electric reactor detoxification research facility, FM Road 1559; 9454; new source

Glenn Thurman, Inc., Sunnyvale, asphalt plant, East Seyene Road, 7351A, modification

Republic Concrete Company, Inc., Fort Worth, concrete batch plant, 2200 Tarrant Main, 6585A, modification

Hartley Industries, Inc., Tyler, asphaltic concrete plant, Tyler, Smith County, 6499H; modification

Film Pak, Inc., Crowley; flexographic printing; 201 South Magnolia; 9457; new source

Bass Enterprises Production Company, Hallettsville, natural gas sweetening and dehydration; Hallettsville, Lavaca County, 9458, new source

D. P. Frost Construction Company, Mexia, rock crushing Plant 1 and Plant 2, Mexia, Limestone County, 9455 and 9456, new sources

Cherokee Refining Corporation, Midland; topping unit; U S Highway 80, 8328A, modification

Foremost Petroleum Company of Texas, Inc., San Antonio, gasoline storage and truck loading; 1319 South Medina, 4607A, modification

Issued in Austin, Texas, on April 16, 1984

TRD-844347 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed April 18, 1984
For further information, please call (512) 451-5711,
ext 354

Office of the Attorney General Consultant Proposal Requests

Description. Pursuant to Texas Civil Statutes, Article 6252-11c, the Office of the Attorney General is inviting proposals for a consultant to provide assistance in managing data, developing damage models, and performing damages calculations in pending or contemplated highway construction contract bid-rigging litigation. The contract will be awarded based on demonstrated competence, knowledge, and qualifications, and on the reasonableness of the proposed fee for the services.

Contact. Written proposals are to be submitted by 5 p m on May 14, 1984, to James V Sylvester, Chief, Antitrust Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711, (512) 475-1013. Interested parties may call for further information.

Issued in Austin, Texas, on April 17, 1984

TRD-844348 Rick Gilpin
 Chairman
 Opinion Committee
 Office of the Attorney General

Filed April 18, 1984

For further information, please call (512) 475-5445

This consultant proposal request is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The Office of the Attorney General is requesting proposals for consulting services. Specific activities to be performed are

(1) aid with design, construction, and maintenance of computer data files for case management and similar applications,

(2) aid with the design, development, and implementation of computer software for case management and similar applications,

(3) aid with the selection, installation, and implementation of computer hardware and software systems, for case management and similar applications, including the Child Support Program and,

(4) aid with the analysis of various data, especially multivariate statistical analysis

This invitation for bids is a continuation of work performed by Robert Godbout, Ph D, under a previous contract, and the office intends to award the contract to this person unless a substantially superior proposal is received.

Prospective bidders may contact Merle L. Moden, Director, Planning and Research Division, Office of the Attorney General of Texas, P O Box 12548, Austin, Texas, 78711-2548, (512) 475-1951

The closing date for receipt of offers is 5 p m on April 30, 1984

Procedures to be used to evaluate offers will include evaluation of

(1) knowledge and experience in the design, construction, and maintenance of computer data files with emphasis on case management and billing systems for attorneys,

(2) knowledge and experience in the design, development, and implementation of computer software with emphasis on case management and billing systems for attorneys;

(3) knowledge and experience in the selection, installation, and implementation of hardware and software systems with emphasis on unique requirements of the Child Support Program;

(4) knowledge and experience in data analysis, with emphasis on the use of multivariate statistical techniques; and

(5) reasonableness of the proposed cost of service in relation to the work described.

Final selection will be made by the Office of the Attorney General based upon submitted qualifications and staff recommendations. Award will not necessarily be made to the bidder offering the lower price, but to the lowest and best bidder considering price and the results of the agency's evaluation of the selection criteria previously shown.

The total amount of this contract shall not exceed \$35,000.

Issued in Austin, Texas, on April 16, 1984

TRD-844298 Rick Gilpin
 Agency Liaison
 Office of the Attorney General

Filed April 17, 1984

For further information, please call (512) 475-5445.

Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On April 13, 1984, the banking commissioner received an application to acquire control of South Main Bank, Houston, by Tracy T. Rudolph and Jack Criswell, both of Houston.

On April 16, 1984, notice was given that the application would not be denied.

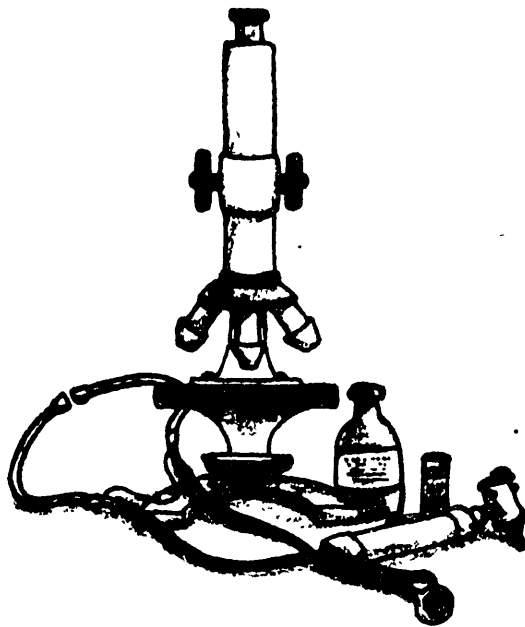
Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on April 16, 1984

TRD-844318 Archie P. Clayton III
 General Counsel
 Banking Department of Texas

Filed April 17, 1983

For further information, please call (512) 475-4451.



**Texas Health Facilities
Commission
Application Accepted for
Amendment, Declaratory Ruling,
and Notice of Intent**

Notice is hereby given by the Texas Health Facilities Commission of an application accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment, NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project, and EC indicates exemption certificate

Should any person wish to become a party to the application, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to the application must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Southwest Dallas Day Surgery Center Partnership
for Southwest Dallas Day Surgery Center, Inc.,
Dallas

AS83-0415-352A(041084)

CN/AMD—Request for an amendment of Certificate of Need AS83-0415-352, which authorized the certificate holder to equip and operate a freestanding ambulatory surgical center in 8,984 square feet of leased space in the Charlton Professional Office Building at the corner of Bolton Boone Road and Wheatland Road in Southwest Dallas. The certificate holder requests a change in the location of the project from the Charlton Professional Office Building to a 8,984 square foot freestanding building to be constructed by the certificate holder at 1010-1102 Wheatland Road, Duncanville, Texas; and to extend the completion deadline from December 2, 1984, to March 2, 1985.

Issued in Austin, Texas, on April 18, 1984

TRD-844338

John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: April 18, 1984

For further information, please call (512) 475-6940.

**House Ethics Committee
Advisory Opinion 68-2**

Request concerning whether a member may rent property to a private, charitable, nonprofit organization if one of the programs the organization conducts is partially funded by the county juvenile probation department.

Summary. If the private organization receives state aid under its contract with the juvenile probation department and uses that state aid to pay all or a portion of the rent owed to the member under the rental contract between the member and the organization, the member has an interest in a contract with the county or state authorized by a law (the General Appropriations Act) passed during the term for which the member was elected. The Texas Constitution, Article III, §18, would therefore prohibit the member from renting his property to the private organization.

If the private organization does not use state aid to pay all or a portion of the rent owed to the member under the rental contract between the member and the private organization, the member still has an interest in a contract with the state or a county, but the contract was not authorized by a law passed during the term for which the member was elected. Therefore, the Texas Constitution, Article III, §18, does not prohibit the member from renting his property to the private organization. However, the member should exercise caution in this financial arrangement since a later change in the law or the funding scheme may operate to invalidate the rental contract at that time.

Article 6252-9b prohibits the member from renting his property to the private organization only if all or part of the rent the member receives consists of state aid.

Issued in Austin, Texas, on April 12, 1984

TRD-844241 Jeannie Glaze
Committee Clerk
House Ethics Committee

Filed April 16, 1984
For further information, please call (512) 475-5733.

Advisory Opinion 68-6

Request concerning whether a house member may use house of representatives' letterhead on a letter used for business, personal, or campaign purposes; whether a house member may use personal or campaign funds to pay for printing the house of representatives' letterhead on letters used for business, personal, or campaign purposes, and if a house member uses house of representatives' letterhead on letters used for business, personal, or campaign purposes, must the letter contain the disclaimer "Not Printed at State Expense"?

Summary. The member may not use house of representatives' letterhead containing the state seal on letters used for business purposes

No law or rule of the house prohibits the member from using house of representatives' letterhead on letters used for personal purposes (as opposed to business purposes) if the letterhead is paid for with personal funds.

No law within this committee's jurisdiction or rule of the house prohibits a member from using house of representatives' letterhead on letters used for campaign purposes.

The member is not required by law or rule of the house to print the disclaimer "Not Printed at State Expense" However, the member may use the disclaimer to avoid the appearance of improper use of state funds

The House Ethics Committee is referring the following questions to the State Ethics Advisory Commission:

May a member of the house of representatives use campaign funds to pay for printing house of representatives' letterhead on letters used for private purposes (as opposed to campaign purposes)? (We have advised house members that if the letterhead contains the state seal, the Business and Commerce Code prohibits the use of the letterhead on stationery used for commercial purposes.) May a member of the house use house of representatives' letterhead on stationery used for campaign purposes if the letterhead is paid for with personal campaign funds?

Issued in Austin, Texas, on April 12, 1984.

TRD-844240 Jeannie Glaze
Committee Clerk
House Ethics Committee

Filed April 16, 1984
For further information, please call (512) 475-5733.

Advisory Opinion 68-7

Request concerning whether it is acceptable for a corporation in which a member of the legislature is a shareholder to request and obtain a permit from the Texas Department of Health to furnish a service to a municipal subdivision.

Summary. The constitution, statutes within this committee's jurisdiction, and house rules do not prohibit a corporation in which a member of the legislature is a shareholder from applying for a permit from the Texas Department of Health to operate a solid waste landfill for a municipal subdivision. However, laws within the jurisdiction of the State Ethics Advisory Commission may apply to this situation, and therefore this request has been referred to the commission to determine the application of those laws within its jurisdiction.

Issued in Austin, Texas, on April 12, 1984.

TRD-844242 Jeannie Glaze
Committee Clerk
House Ethics Committee

Filed: April 16, 1984
For further information, please call (512) 475-5733.



Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, requires any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On April 16, 1984, the savings and loan commissioner received an application for approval of the acquisition of control of Heights Savings Association, Houston, and Southmore Savings Association, Pasadena, by Century Corporation, Schnitzer Enterprises, Inc., Kenneth Schnitzer, and Schnitzer Enterprises Trust of Houston

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on April 17, 1984.

TRD-844333 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: April 17, 1984
For further information, please call (512) 475-7991.

Application to Establish Remote Service Units

An application has been filed with the savings and loan commissioner of Texas by First Texas Savings Association, Dallas, for approval to establish and operate remote service units at the 7-11 Stores located in the cities in the following list. The street addresses may be inspected at the department's offices.

Alvin	Jacinto City
Amarillo	Katy
Angleton	Kaufman
Arlington	Kilgore
Austin	Killeen
Azle	La Marque
Balch Springs	Lake Jackson
Bay City	Lancaster
Baytown	LaPorte
Bedford	League City
Big Spring	Levelland
Borger	Lewisville
Brazoria	Longview
Brownfield	Lubbock
Bryan	Mansfield
Burleson	Marshall
Canyon	McKinney
Carrollton	Mesquite
Center	Mexia
Cleburne	Midland
Clute	Mineola
Cockrell Hill	Nacogdoches
College Station	Nasa
Columbus	Nassau Bay
Copperas Cove	North Richland Hills
Corpus Christi	Odesa
Corsicana	Padre Island
Dalhart	Palestine
Dallas	Pampa
Deer Park	Paris
Denton	Pasadena
DeSoto	Plano
Duncanville	Port Aransas
El Paso	Portland
Eules	Richardson
Everman	Richwood
Farmers Branch	Robstown
Flour Bluff	Rockwall
Fort Worth	San Antonio
Freeport	Santa Fe
Friendswood	Seabrook
Gainesville	Sealy
Galveston	Seven Points
Garland	Sherman
Gatesville	Sinton
Gladewater	Spring
Grand Prairie	Sweeny
Grapevine	Taft
Greenville	Temple
Gun Barrell	Terrell
Haltom City	Texarkana
Harker Heights	Texas City
Hearne	The Colony
Hempstead	Tomball
Henderson	Tyler
Hewitt	Victoria
Hillsboro	Waco
Hitchcock	Watauga
Houston	Waxachie
Humble	Weatherford
Hurst	West Columbia
Irving	

The applicant association asserts that the security of the association's funds and that of its account holders will

be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the previously mentioned application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to the rules of the Texas Savings and Loan Department, 7 TAC §§53.11-53.16. These rules are on file with the Office of the Secretary of State, Texas Register Division, or may be seen at the department's offices at 1004 Lavaca Street, Austin, Texas.

Issued in Austin, Texas, on April 17, 1984

TRD-844334 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed April 17, 1984

For further information, please call (512) 475-7991.

Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 9-13, 1984.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal

Period of April 9-13, 1984

Fort Bend County Municipal Utility District 13, Houston; wastewater treatment plant; approximately 1.7 miles east of the intersection of U.S. Highway 59 and State Highway 6 and 1.2 miles south of State Highway 6 in Fort Bend County; 12833-01; amendment

SDS Biotech Corporation, Houston; agricultural chemicals plant; at 2239 Haden Road adjacent to the City of Houston, Harris County; 00749, amendment

State Department of Highways and Public Transportation, Fort Worth; rest area sewage treatment plant; on the northwest side of IH 20, at a point approximately ¼ mile west of the Parker County Line, in Palo Pinto County; 11311-01; renewal

The Town of Little Elm; wastewater treatment plant; approximately 2,600 feet east of the intersection of FM Road 720 and Hart Road and 100 feet south of FM Road 720 in the Town of Little Elm in Denton County; 11600-01; renewal

Charterwood Municipal Utility District, Houston; wastewater treatment plant; on Pillott Gully approximately one mile north of Cypress Creek and ¼ mile east of FM Road 149 (West Montgomery Road) in Harris County; 11410-01; renewal

The City of Jacksboro; water treatment plant; northwest of the intersection of Oakwood Avenue and North Bowie Street (State Highway 59) in the City of Jacksboro in Jack County; 10994-02; renewal

Triad Properties, Inc , Tyler; wastewater treatment plant; at the intersection of Quail Lane and Bobwhite Lane, approximately 1-3/8 miles southwest of the intersection of State Highway 110 and FM Road 346 in Smith County; 12910-01; new permit

The City of Coolidge, wastewater treatment plant; approximately 4,500 feet northeast of the intersection of FM Road 73 and FM Road 1951 in Limestone County; 10496-01; amendment

Clear Lake City Water Authority, Houston; wastewater treatment plant; approximately one mile east-southeast of Bay Area Boulevard, southeast of Horsepen Bayou and adjacent to the northernmost part of the Lyndon B Johnson Space Center in Harris County; 10539-01, renewal

The City of Fayetteville; wastewater treatment plant; approximately ½ mile east of the intersection of State Highway 159 and FM Road 1291 in the City of Fayetteville, in Fayette County, 10840-01; renewal

The City of Edgewood, wastewater treatment plant; on the southern bank of Giladon Creek, approximately 2,200 feet east of FM Road 859 in Van Zandt County; 10560-01; renewal

The City of Hallettsville, wastewater treatment plant; on the east bank of the Lavaca River approximately 1,000 feet downstream from the U S Highway 90-A and U.S. Highway 77 bridge across the Lavaca River in the City of Hallettsville, in Lavaca County; 10013-01; renewal

F. H. Hawkins, Inc , Houston; wastewater treatment plant; at 5821 Teague Road in the City of Houston, Harris County, 02708, new permit

Fort Bend County Municipal Utility District 9, Houston; multifamily residential development; approximately 1.7 miles north of the intersection of U.S. Highway 59 and FM Road 359, approximately 0.4 mile

north-northeast of the intersection of Precinct Line Road and Richmond-Foster Road in Fort Bend County; 12911-01; new permit

Ronald L. Hensarling, Houston; wastewater treatment plant; on the southern edge of Greenhollow Park Subdivision; approximately 1,500 feet east of IH 45 and ½ mile north of Greens Road in Harris County; 12152-01; renewal

The City of Iredell; wastewater treatment plant; approximately 1,000 feet south of the North Bosque River, approximately 700 feet east of the intersection of Kidd and Meridian Streets on the east side of Iredell in Bosque County, 11565-01, renewal

U.S. Army Corps of Engineers, Clifton; sewage treatment plant; at the Whitney Lake Dam Powerhouse approximately one mile east of the intersection of State Highway 22 and FM Road 56 in Bosque County, 12087-01; renewal

U.S. Army Corps of Engineers, Wylie, wastewater treatment plant, in Lakeland Park, on the east side of Lake Lavon, at a point approximately two miles west of the intersection of State Highway 78 and State Highway Spur 509 in Collin County; 12060-01, renewal

U.S. Army Corps of Engineers, Wylie, wastewater treatment plant; in Lavonia Park, immediately northeast of Lavon Dam, on the southeast side of Lake Lavon, at a point approximately 1.4 miles southwest of the intersection of State Highway 78 and FM Road 6, in Collin County, 12061-01, renewal

Trail Dust Steak House, Inc , Arlington, mobile home subdivision and restaurant, approximately 1,000 feet northeast of the intersection of U S. Highway 380 and FM Road 720 in Denton County; 11613-01; amendment

Forest Cove Municipal Utility District, Humble, wastewater treatment plant; northeast of the City of Humble, Harris County, approximately 300 feet north of the intersection of Hamblen Road and Burning Tree Road; 10807-01, renewal

The United States Department of the Navy, McGregor; wastewater treatment system, southwest of the City of McGregor, just west of State Highway 317, bounded on the south by FM Road 2671 and on the north by the St. Louis Southwestern Railway in Coryell and McLennan Counties, 02335; amendment

Georgia-Pacific Corporation, Pasadena, Class I hazardous/industrial solid waste storage facility, on approximately 50 acres in the northeast part of a 623-acre tract of land out of the Thomas Earle Survey, Abstract 18, Harris County, HW50022-000; renewal

Issued in Austin, Texas, on April 13, 1984

TRD-844218 Mary Ann Hefner
Chief Clerk
Texas Water Commission

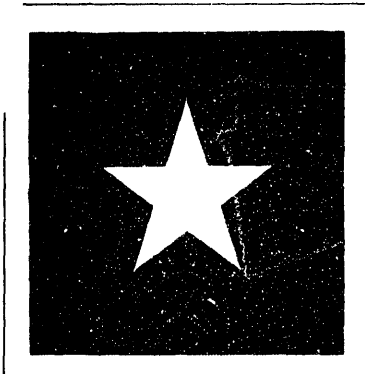
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