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7th Grade

Vernon Intermediate School, Vernon ISD

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PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans-Standards

1 TAC §251.2, §251.6

The Advisory Commission on State Emergency Communications proposes new §251.2, concerning guidelines for changing or extending 9-1-1 service arrangements and an amendment to §251.6, concerning guidelines for Strategic Plans, Amendments, and Equalization Surcharge Allocation. These sections provide guidelines for changing or extending 9-1-1 service arrangements in the new competitive and fast-changing telecommunications environment. The new section provides guidelines to ensure that changing or extending service arrangements does not degrade the provision of the highest level of 9-1-1 service or fail to address technical or cost issues that may result from the new telecommunications environment. The amended section incorporates the new section into the existing guidelines for strategic plans, amendments, and equalization surcharge allocation.

James D. Goerke, Executive Director, has determined that for each year of the first five years the new and amended sections are in effect any fiscal impact to state or local governments will be covered by emergency service fees and/or equalization surcharges.

James D. Goerke, Executive Director, has determined that for each year of the first five years the new and amended sections are in effect the public benefit as a result of the section will be the better and more orderly implementation of changes and extensions of service arrangements in the new telecommunications environment. There are no economic costs to persons (e.g. service providers) required to comply with these sections. Furthermore, these sections will better inform service providers wanting to make proposals that change or extend service arrangement of the criteria for such proposals.

Comments may be submitted within 30 days after publication in the *Texas Register* and reply comments within 15 days thereafter to James D. Goerke, Executive Director, Advisory Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701, (512) 305-6911.

The sections are proposed under Health and Safety Code, Chapter 771, §§771.051, 771.055, 771.056, 771.059, which provide the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statewide 9-1-1 service, to develop minimum performance standards for 9-1-1 service to be followed in developing regional plans, and to allocate money for the operation of 9-1-1 service.

Health and Safety Code, Chapter 771 is affected by these proposed sections.

§251.2. Guidelines for Changing or Extending 9-1-1 Service Arrangements.

(a) Definitions. When used in this rule, the following words and terms shall have the meanings identified in paragraphs (1)-(5) of this subsection, unless the context of the word or term clearly indicates otherwise.

(1) Automatic Number Identification (ANI) – A system which permits the identification of the caller's telephone number. For purposes of this rule, the term has the same meaning as in 47 C.F.R §20.18.

(2) Emergency Communications District – A public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or a district created under Texas Health and Safety Code, Chapter 772, Subchapters B, C, D, or E.

(3) Pseudo Automatic Number Identification (Pseudo ANI) – A system which identifies the location of the base station or cell site through which a mobile call originates. For purposes of this rule, the term has the same meaning as in 47 C.F.R §20.18.

(4) Regional Plan – A plan for the establishment and operation of 9-1-1 service throughout the region that regional planning

commissions serves. The plan must meet the standards established by and be amended in accordance with the standards established by the Advisory Commission on State Emergency Communications.

(5) Regional Planning Commission – A commission established under Local Government Code, Chapter 391, also referred to as a regional council of governments (COG).

(b) Policy and Procedures. As authorized by Health and Safety Code, Chapter 771, the Advisory Commission on State Emergency Communications (ACSEC) may impose 9-1-1 emergency service fees and equalization surcharges to support the planning, development, and provision of 9-1-1 service throughout the State of Texas. ACSEC is responsible for administering the implementation of statewide 9-1-1 service. ACSEC is also responsible for minimum performance standards for the operation of 9-1-1 service to be followed in developing regional plans. One of the most fundamental components of any 9-1-1 service operation and any regional plan is how the 9-1-1 service will be provided by the service provider(s) directly connecting to the Public Safety Answering Point (PSAP). Changing the tandem and/or database service arrangements for direct connection to the PSAP, adding additional tandem and/or database service providers, or extending current service arrangements for a fixed period may potentially adversely effect the level, quality, and costs of 9-1-1 service. Changing the tandem and/or database service arrangements for direct connection to the PSAP, adding additional tandem and/or database service providers, or extending current service arrangements for a fixed period may also potentially adversely effect other service providers that rely on another service provider for interconnection to the PSAP (e.g., other service providers need to know which provider to send Automatic Number Identification (ANI) information and Automatic Location Information (ALI) records, the format for ALI records, the procedures for modifying 9-1-1 database information, and how 9-1-1 service will be provided to their end-user customers). It is the policy of ACSEC that the highest level of 9-1-1 emergency service continue to be provided notwithstanding the new competitive telecommunications environment. Therefore, any agreement by a regional planning commission with a service provider to change or to extend 9-1-1 service arrangements for a fixed period must be made contingent upon final approval of a regional plan amendment. For emergency communication districts requesting 9-1-1 funds in accordance with established rules and procedures for 9-1-1 service arrangements, the extent to which the guidelines below are satisfied may be considered in allocating equalization surcharges.

(c) Guidelines.

(1) Changes or extensions of 9-1-1 service arrangements must include the following:

(A) The service provider making the proposal to the regional planning commission or emergency communications district verifies in writing, as part of the proposed agreement, that:

(i) Reasonable notice of the proposal (i.e., at least ten days before a joint planning meeting) has been provided to the current service provider (if a change in service providers is involved) and to other potentially affected service providers. The service provider also verifies that at least one joint planning meeting occurred with at least ten days notice to all affected service providers that they may participate in the joint planning meeting.

(ii) As a result of the joint planning meeting either each technical issue, or objection by other service providers has fully

been resolved or an impartial statement of each unresolved issue or objection has been provided. (A joint planning meeting is open to evaluate all alternatives and is not limited to a discussion of one service provider's proposal.)

(iii) An inventory of each affected exchange, central office, and tandem has been provided to all affected service providers involved.

(iv) An itemization of all costs under the proposal and an itemized comparison with all costs under current rates (e.g., itemized list and comparison of all charges for each level of service, for all database service, etc.).

(v) Any and all changes in E9-1-1 or 9-1-1 service features (i.e., all additional service features or reductions in service features that may result from the proposal) must be clearly specified. The service provider must also explain the justifications for any and all changes and why those changes do not degrade the level of 9-1-1 service and are consistent with providing the highest level of 9-1-1 service to all customers.

(vi) The service provider takes full responsibility to professionally and timely coordinate all 9-1-1 service changes and modifications with all service providers and private switch providers involved in the geographic area, and that any necessary new or modified interconnection agreements relating to 9-1-1 service will be approved by the Public Utility Commission of Texas before the effective date of the proposed agreement and as necessary thereafter.

(vii) The proposal includes a statement of work to be performed that includes:

(I) an implementation schedule;

(II) diagrams of all proposed changes;

(III) how testing will occur and be coordinated;

(IV) how interfaces with other service providers will be accomplished and coordinated;

(V) an explanation of everything necessary for implementation;

(VI) a schedule of everything necessary for database service implementation, including Emergency Service Number (ESNs) assignments and Master Street Address Guide (MSAG) revisions and distribution to other service providers; and

(VII) an explanation of any potential Customer Premises Equipment (CPE) impacts.

(viii) The proposal provides for service providers that are wireless carriers to be able to pass ANI and Pseudo ANI or that on request any modifications necessary to pass ANI and Pseudo ANI by the Federal Communications Commission's eighteen month deadline in 47 C.F.R. §20.18(d) will not require additional rates or charges to any PSAP, 9-1-1 entity, or any wireless carrier.

(ix) The proposal provides for and enables long-term number portability or that any modifications necessary for long-term number portability will not require additional rates or charges to any PSAP or 9-1-1 entity.

(x) The proposal provides that there will be no additional costs to any PSAP or 9-1-1 entity for any modifications necessary during the period of the agreement because of Number

Plan Area (NPA) splits and/or existing tandem or other network limitations.

(xi) The proposal provides that there will be no additional costs to any PSAP or 9-1-1 entity to maintain the current level of E9-1-1 service, except as specifically set forth in an itemized list that is part of the proposed agreement.

(xii) No further agreement by the regional planning commission is necessary to implement the proposal (e.g., the service provider and not the regional planning commission is responsible for any and all coordination with other parties or service providers that may be necessary to implement the proposal).

(xiii) A most favored nation provision (i.e. a provision that requires the best price provided to any other entity in Texas for comparable service) is included in the agreement and the service provider will automatically reduce the rates and charges in the agreement if comparable service is offered in Texas at a lower rate or charge by that service provider to any other PSAP or 9-1-1 entity.

(xiv) The service provider will comply with all ACSEC and Public Utility Commission of Texas rules or regulations relating to 9-1-1 service.

(B) The regional planning commission requesting the plan amendment verifies in writing, as part of the proposed plan amendment, that:

(i) Competitive procurement procedures were used or an explanation of the applicability of an exception to competitive procurement requirements.

(ii) All neighboring or adjacent 9-1-1 entities that could potentially be affected by the requested plan amendment have been provided a copy of the plan amendment either before or concurrently with the filing of the plan amendment with the ACSEC.

(2) Emergency communication districts requesting 9-1-1 funds in accordance with established rules and procedures for 9-1-1 service arrangements shall ensure that any changes or extensions of service arrangements meet or exceed the guidelines for regional planning commissions in this section.

(3) Annual budgeted costs associated with 9-1-1 service arrangements shall be monitored by the ACSEC staff for consistency with this section. Such costs that are determined by the ACSEC staff to not be consistent with this section shall be reviewed by the commission.

§251.6. *Guidelines for Strategic Plans, Amendments, and Equalization Surcharge Allocation .*

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

(f) Funding Parameters. The Commission will look favorably on plan amendments for **tandem and/or database service arrangements and** ancillary equipment that will improve the effectiveness and reliability of 9-1-1 call delivery systems. This will include the following when the equipment is for 9-1-1 call delivery: surge protection devices, uninterrupted power source (UPS), power backup, voice recorders, paging systems for 9-1-1 call delivery, security devices, and other backup communication services.

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

(g)-(h) (No change.)

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

Issued in Austin, Texas, on December 27, 1996.

TRD-9618661

James D. Goerke

Executive Director

Advisory Commission on State Emergency Communications

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For further information, please call: (512) 305-6911

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 163. Licensure

22 TAC §163.6, §163.10

The Texas State Board of Medical Examiners proposes amendments to §163.6 and §163.10, concerning procedural rules for licensure of physicians. The amendments will correct a typographical error and outline examinations or formal evaluations required for relicensure of physicians.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the section will be to require that all licensure applicants pass an examination or formal evaluation within ten years prior to licensure as outlined in §163.6 and to correct a typographical error in §163.10. There will be no effect on small businesses. The economic cost to persons who are required to comply with the section as proposed will vary depending on the type of examination the applicant is required to take.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

Article 4495b, Texas Civil Statutes, §3.05, is affected by this amendment.

§163.6. *Procedural Rules for Licensure Applicants.*

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

(c) Applicants for licensure by endorsement:

(1) (No change.)

(2) who have not been examined for licensure in a ten-year period prior to the filing date of the application must pass Day III or Component II of the FLEX prior to June 1988, or SPEX, with a grade of 75 or higher, unless the applicant has [obtained]:

(A) **passed a specialty certification examination or formal evaluation**, recertification **examination or formal evaluation**, or an examination of continued demonstration of qualifications by a board that is a member of the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists within the preceding ten years; or

(B) **obtained** through extraordinary circumstances, unique training equal to the training required for specialty certification as determined by a committee of the board and approved by the board.

§163.10. *Distinguished Professors Temporary License.*

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

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

(3) whose application has been filed, processed, and found to be in order. The application shall be complete in every detail except that the applicant will not be required to have taken and passed the SPEX examination as set forth in §163.6 [163.1] of this title (relating to **Procedural Rules for Licensure Applicants** [Licensure Definitions]);

(4) (No change.)

(b)-(e) (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 December 23, 1996.

TRD-9618634

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: February 7, 1997

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



Chapter 165. Medical Records

22 TAC §165.2

The Texas State Board of Medical Examiners proposes new §165.2, regarding patient access to diagnostic imaging studies in the physician's office. This section is promulgated to ensure that patients have reasonable access to films and other static diagnostic imaging studies maintained in the physician's office and that the practice of medicine by individual licensees and the delivery of health care to the public shall not be unduly hindered or interrupted by allowing for such access.

Tony Cobos, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be to outline the charges and procedures for providing copies of x-rays and other static diagnostic imaging studies. There may be an effect on small businesses which cannot be determined at this time. There is anticipated economic cost to persons who are required to comply with the section as proposed; however, the extent of the cost cannot be determined at this time.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

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

§165.2. *Patient Access to Diagnostic Imaging Studies in Physician's Office.*

(a) Purpose. This section is promulgated to ensure that patients have reasonable access to films and other static diagnostic imaging studies maintained in the physician's office and that the practice of medicine by individual licensees and the delivery of health care to the public shall not be unduly hindered or interrupted by allowing for such access.

(b) Request and release.

(1) Upon receiving a written request and release of information as provided for in the Medical Practice Act, §5.08(j), as required for the release of medical records, a physician in possession or control of films or other static diagnostic imaging studies of a patient shall allow access to the films or other diagnostic imaging studies through one or more of the following means:

(A) providing copies of the films or other static diagnostic imaging studies to the patient or recipient as designated in the request; or,

(B) releasing the original films or other static diagnostic imaging studies to the patient or recipient as designated in the request.

(2) Release and transfer of original films or other static diagnostic imaging studies may be evidenced by a signed and dated receipt from a recipient of the original films or other diagnostic imaging studies, or from their authorized representative, acknowledging receipt of and responsibility for the original studies.

(c) Exceptions. as provided for under the Medical Practice Act, §5.08(j) (relating to release of confidential patient information), a physician is not required to release films or other static diagnostic imaging studies directly to a patient if the physician determines that access to the films or static diagnostic imaging studies would be harmful to the physical, mental, or emotional health of the patient. If a physician makes a determination that access would be harmful to the physical, mental, or emotional health of the patient, the physician shall, within the time allowed after receipt of a proper request, provide

access to the requested films or static diagnostic imaging studies to an authorized representative of the patient as provided for in subsection (b) of this section (relating to request and release).

(d) Time for release and denial. The requested copies or access to films or other static diagnostic imaging studies shall be provided by the physician within 30 days after the date of receipt of the request. If the physician denies the request, in whole or in part, the physician shall furnish the patient a written statement, signed and dated, stating the reason for the denial. A copy of the statement denying the request shall be placed in the patient's medical records.

(e) Fees. The physician responding to a request for copies of films or other static diagnostic imaging studies shall be entitled to a reasonable fee for providing the copies. A reasonable fee shall be no more than \$8.00 per copy. In addition, a reasonable fee may include actual costs for mailing, shipping, or delivery.

(f) Emergency Request. The physician providing copies of requested films or other static diagnostic imaging studies shall be entitled to a reasonable fee prior to release of the copies unless the copies are requested by a licensed Texas health care provider or a physician licensed by any state, territory, or insular possession of the United States or any state or province of Canada if requested for purposes of emergency or acute medical care. In the event that the physician receives a proper request for copies of films or other static diagnostic imaging studies for purposes other than for emergency or acute medical care, the physician may retain the requested information until payment is received. In the event that payment is not routed with such a request, within ten calendar days from receiving a request for copies of films or other static diagnostic imaging studies for purposes other than emergency or acute medical care, the physician shall notify the requesting party in writing of the need for payment and may withhold the copies until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's medical record. Access to or copies of films or other static diagnostic imaging studies requested pursuant to a proper request for release may not be withheld from the patient, the patient's authorized agent, or the patient's designated recipient for such copies based on a past due account for medical care or treatment previously rendered to the patient.

(g) Subpoena. A subpoena shall not be required for access to or the release of originals or copies of static diagnostic imaging studies requested pursuant to the provisions of this section.

(h) Maximum charges. The allowable charges set forth in this section shall be maximum amounts, and this section shall be construed and applied so as to be consistent with lower fees or the prohibition or absence of such fees as required by prevailing state or federal law.

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 December 23, 1996.

TRD-9618633

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: February 7, 1997

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

◆ ◆ ◆

Chapter 174. Telemedicine

22 TAC §174.3

The Texas State Board of Medical Examiners proposes an amendment to §174.3, relating to the practice of telemedicine in Texas. The amendment will require passage of the Texas Medical Jurisprudence Examination for physicians applying for a special license to practice telemedicine.

Tony Cobos, general counsel, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section as proposed which the agency anticipates will be offset by the revenue generated through the cost of the examination.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be to require passage of the medical jurisprudence examination as a prerequisite for obtaining a special license to practice telemedicine. This will ensure that physicians practicing telemedicine will be knowledgeable regarding Texas laws governing the practice of medicine. There is currently no anticipated significant effect on small businesses. There is an anticipated cost of the examination already calculated in the licensure processing fee, as well as individual expenses for travel to Austin, Texas, to take the examination, to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

Article 4495b, Texas Civil Statutes, §3.06, is affected by this amendment.

§174.3. Qualifications for Special Purpose License for Practice of Medicine Across State Lines.

For a person to engage in the practice of medicine in Texas as defined under the Medical Practice Act, §3.06(i), and §174.2 of this chapter (relating to Definitions), the person must:

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

(3) be certified in a medical specialty pursuant to the standards of and approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists and Boards of Certification; [and]

(4) have passed the Texas Medical Jurisprudence Examination; and

(5)[(4)] be in possession of a special purpose license issued pursuant to the terms of this chapter after submission of a completed board-approved application for a special purpose license

for the practice of medicine across state lines and any requisite initial fee and subsequent annual renewal fees.

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 December 23, 1996.

TRD-9618632

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: February 7, 1997

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



Chapter 183. Acupuncture

22 TAC §183.4

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

The Texas State Board of Medical Examiners proposes repeal of §183.4, relating to licensure requirements for acupuncturists. Extensive rewrite of the section is necessary; therefore, repeal of existing rule is proposed with simultaneous new section.

Tony Cobos, general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Mr. Cobos 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 enforcing the section will be clarification by omission of outdated information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

Article 4495b, Texas Civil Statutes, Subchapter F, is affected by this proposal.

§183.4. Licensure.

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 December 23, 1996.

TRD-9618631

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: February 7, 1997

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



22 TAC §§183.4, 183.20, 183.22

The Texas State Board of Medical Examiners proposes amendments to §183.20 and new §183.4 and 183.22 relating to the practice of acupuncture. Extensive rewrite of §183.4 regarding licensure requirements for acupuncturists was necessary; therefore the new section is proposed with simultaneous repeal of existing rule. Amendments to §183.20 concern the issuance of masters of acupuncture and of oriental medicine degrees. New §183.22 outlines the requirements for continuing medical education.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications as a result of enforcing or administering the sections as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to clarify the licensure rules and ensure that proper patient care is maintained through participation in continuing education. There may be some effect on small businesses which offer continuing acupuncture education courses. There is anticipated economic cost to persons who are required to comply with the sections as proposed, but the exact amount will vary between educational courses.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

Article 4495b, Texas Civil Statutes, Subchapter F, is affected by this proposal.

§183.4. Licensure.

(a) Qualifications. An applicant must present satisfactory proof to the acupuncture board that the applicant:

(1) is at least 21 years of age;

(2) is of good professional character as defined in section 183.2 of this title (relating to Definitions);

(3) has successfully completed 60 semester hours of general academic college level courses, other than in acupuncture school, that are not remedial and would be acceptable at the time they were completed for credit on an academic degree at a two or four year institution of higher education within the United States accredited

by an agency recognized by the Higher Education Coordinating Board or its equivalent in other states as a regional accrediting body. Coursework completed as a part of a degree program in acupuncture or Oriental medicine may be accepted by the acupuncture board if, in the opinion of the acupuncture board, such coursework is substantially equivalent to the required hours of general academic college level coursework;

(4) is a graduate of an acceptable acupuncture school that was a candidate for accreditation or had accreditation through the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) at the time of applicant's graduation, or received and completed training which, in the opinion of the acupuncture board, was substantially equivalent to training provided by such a school;

(5) has taken and passed, within three attempts, the full NCCA examination;

(6) has taken and passed the CCAOM (Council of Colleges of Acupuncture and Oriental Medicine) Clean Needle Technique (CNT) course and practical examination; and

(7) is able to communicate in English as demonstrated by one of the following:

(A) passage of the NCCA examination taken in English; or

(B) passage of the TOEFL (Test of English as a Foreign Language) with a score of 550 or higher; or

(C) passage of the TSE (Test of Spoken English) with a score of 45 or higher; or

(D) passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher; or

(E) at the discretion of the acupuncture board, passage of any other similar, validated exam testing English competency given by a testing service with results reported directly to the acupuncture board or with results otherwise subject to verification by direct contact between the testing service and the acupuncture board; or

(F) an interview conducted in English with the acupuncture board, a committee of the acupuncture board, or the executive director of the acupuncture board.

(b) Procedural rules for licensure applicants. The following provisions shall apply to all licensure applicants.

(1) Applicants for licensure:

(A) whose documentation indicates any name other than the name under which the applicant has applied must furnish proof of the name change;

(B) whose application for licensure which has been filed with the board office and which is in excess of two years old from the date of receipt shall be considered inactive. Any fee previously submitted with that application shall be forfeited. Any further application procedure for licensure will require submission of a new application and inclusion of the current licensure fee.

(C) will be allowed to sit for the NCCA examination only three times. After the third failure of the examination, and after each subsequent failure, an applicant for licensure shall be required to appear before a committee of the acupuncture board to address the

applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure;

(D) who in any way falsify the application may be required to appear before the acupuncture board. It will be at the discretion of the acupuncture board whether or not the applicant will be issued a Texas acupuncture license;

(E) on whom adverse information is received by the acupuncture board may be required to appear before the acupuncture board. It will be at the discretion of the acupuncture board whether or not the applicant will be issued a Texas license;

(F) shall be required to comply with the acupuncture board's rules and regulations which are in effect at the time the completed application form and fee are filed with the board;

(G) may be required to sit for additional oral, written, or practical examinations or demonstrations that, in the opinion of the acupuncture board, are necessary to determine competency of the applicant;

(H) must have the application for licensure completed and legible in every detail 60 days prior to the acupuncture board meeting in which they are to be considered for licensure unless otherwise determined by the acupuncture board based on good cause.

(2) Applicants for licensure by examination who wish to request reasonable accommodation due to a disability must submit the request at the time of filing the application.

(3) Applicants who have been licensed in any other state, province, or country shall complete a notarized oath or other verified sworn statement in regard to the following:

(A) whether the license, certificate, or authority has been the subject of proceedings against the applicant for the restriction, cancellation, suspension, or revocation of the license, certificate, or authority to practice in the state, province, or country, and if so, the status of such proceedings and any resulting action; and,

(B) whether an investigation in regard to the applicant is pending in any jurisdiction or a prosecution is pending against the applicant in any state, federal, national, local, or provincial court for any offense that under the laws of the state of Texas is a felony, and if so, the status of such prosecution or investigation.

(c) Licensure documentation.

(1) Original documents/interview. An applicant must appear for a personal interview at the board offices and present original documents to a representative of the board for inspection. Original documents may include, but are not limited to, those listed in paragraph (2) of this subsection.

(2) Required documentation. Documentation required of all applicants for licensure shall include the following:

(A) Birth certificate/proof of age. Each applicant for licensure must provide a copy of either a birth certificate and translation, if necessary, to prove that the applicant is at least 21 years of age. In instances where a birth certificate is not available, the applicant must provide copies of a passport or other suitable alternate documentation.

(B) Name change. Any applicant who submits documentation showing a name other than the name under which the applicant has applied must present copies of marriage licenses, di-

voiced decrees, or court orders stating the name change. In cases where the applicant's name has been changed by naturalization the applicant must submit the original naturalization certificate by hand delivery or by certified mail to the board office for inspection.

(C) Examination scores. Each applicant for licensure must have a certified transcript of grades submitted directly from the appropriate testing service to the acupuncture board for all examinations used in Texas for purposes of licensure in Texas.

(D) Dean's certification. Each applicant for licensure must have a certificate of graduation submitted directly from the school of acupuncture on a form provided by the acupuncture board. The applicant shall attach to the form a recent photograph, meeting United States Government passport standards, before submitting it to the school of acupuncture. The school shall have the Dean or the designated appointee sign the form attesting to the information on the form and placing the school seal over the photograph.

(E) Diploma or certificate. All applicants for licensure must submit a copy of their diploma or certificate of graduation.

(F) Evaluations. All applicants must provide, on a form furnished by the acupuncture board, evaluations of their professional affiliations for the past ten years or since graduation from acupuncture school, whichever is the shorter period.

(G) Preacupuncture school transcript. Each applicant must have the appropriate school or schools submit a copy of the record of their undergraduate education directly to the acupuncture board. Transcripts must show courses taken and grades obtained. If determined that the documentation submitted by the applicant is not sufficient to show proof of the completion of 60 semester hours of college courses other than in acupuncture school, which courses would be acceptable, at the time of completion, to The University of Texas at Austin for credit on a bachelor of arts degree or a bachelor of science degree, the applicant may be requested to contact the Office of Admissions at The University of Texas at Austin for course work verification or otherwise submit such documentation to the acupuncture board for a determination as to the adequacy of such education.

(H) School of acupuncture transcript. Each applicant must have his or her acupuncture school submit a transcript of courses taken and grades obtained directly to the acupuncture board.

(I) Fingerprint card. Each applicant must complete a fingerprint card for the Texas Department of Public Safety and return it to the acupuncture board as part of the application.

(J) Other verification. For good cause shown, with the approval of the acupuncture board, verification of any information required by this subsection may be made by a means not otherwise provided for in this subsection.

(3) Additional documentation. Applicants may be required to submit other documentation, including but not limited to the following:

(A) Translations. An accurate certified translation of any document that is in a language other than the English language along with the original document or a certified copy of the original document which has been.

(B) Arrest Records. If an applicant has ever been arrested, a copy of the arrest and arrest disposition from the arresting

authority and submitted by that authority directly to the acupuncture board.

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

(i) a completed liability carrier form furnished by the acupuncture board regarding each claim filed against the applicant's insurance;

(ii) for each claim that becomes a malpractice suit, a letter from the attorney representing the applicant directly to this board explaining the allegation, dates of the allegation, and current status of the suit. If the suit has been closed, the attorney must state the disposition of the suit, and if any money was paid, the amount of the settlement, unless release of such information is prohibited by law or an order of a court with competent jurisdiction. If such letter is not available, the applicant will be required to furnish a notarized affidavit explaining why this letter cannot be provided; and

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

(D) Inpatient treatment for alcohol/substance abuse or mental illness. Each applicant that has been admitted to an inpatient facility within the last ten years for the treatment of alcohol/substance abuse or mental illness must submit the following:

(i) an applicant's statement explaining the circumstances of the hospitalization;

(ii) an admitting summary and discharge summary, submitted directly from the inpatient facility;

(iii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and

(iv) a copy of any contracts or agreements signed with any licensing authority.

(E) Outpatient treatment for alcohol/substance abuse or mental illness. Each applicant that has been treated on an outpatient basis within the last ten years for alcohol/substance abuse or mental illness must submit the following:

(i) an applicant's statement explaining the circumstances of the outpatient treatment;

(ii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and

(iii) a copy of any contracts or agreements signed with any licensing authority.

(F) Additional documentation. Additional documentation as is deemed necessary to facilitate the investigation of any application for licensure.

(G) DD214. A copy of the DD214 indicating separation from any branch of the United States military.

(H) Other verification. For good cause shown, with the approval of the acupuncture board, verification of any information

required by this subsection may be made by a means not otherwise provided for in this subsection.

(I) False documentation. Falsification of any affidavit or submission of false information to obtain a license by examination or endorsement shall subject an acupuncturist to denial of a license or to discipline pursuant to the Act, §6.11.

(4) Substitute documents/proof. The acupuncture board may, at its discretion, allow substitute documents where proof of exhaustive efforts on the applicant's part to secure the required documents is presented. These exceptions are reviewed by the acupuncture board, a board committee, or the board's executive director on an individual case-by-case basis.

(d) Temporary license.

(1) Issuance. The Texas State Board of Acupuncture Examiners may, through the executive director of the Texas State Board of Medical Examiners, issue a temporary license to a licensure applicant who appears to meet all the qualifications for an acupuncture license under the Act, but is waiting for the next scheduled meeting of the Texas State Board of Acupuncture Examiners for the license to be issued.

(2) Duration/renewal. A temporary license shall be valid for 100 days from the date issued and may be extended only for another 30 days after the date the initial temporary license expires. Issuance of a temporary license may be subject to restrictions at the discretion of the executive director and shall not be deemed dispositive in regard to the decision by the Texas State Board of Acupuncture Examiners to grant or deny an application for a permanent license.

(e) Distinguished professor temporary license.

(1) Issuance. The acupuncture board may issue a distinguished professor temporary license to an acupuncturist who:

(A) holds a substantially equivalent license, certificate, or authority to practice acupuncture in another state, province, or country; and

(B) agrees to and limits any acupuncture practice in this state to acupuncture practice for demonstration or teaching purposes for acupuncture students and/or instructors, and in direct affiliation with an acupuncture school that is a candidate for accreditation or has accreditation through the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NAC-SCAOM) at which the students are trained and/or the instructors teach; and

(C) agrees to and limits practice to demonstrations or instruction under the direct supervision of a licensed Texas acupuncturist who holds an unrestricted license to practice acupuncture in this state; and

(D) pays any required fees for issuance or renewal of the distinguished professor temporary license.

(2) Duration/renewal. Any such distinguished professor temporary license shall have a duration of no longer than 60 days and may be renewed no more than three consecutive times for a total of an additional 180 days.

(3) Termination. A distinguished professor temporary license shall automatically expire at the end of 60 days from issuance

or 60 days from date of renewal unless otherwise renewed. a distinguished professor temporary license or renewal may be denied, terminated, cancelled, suspended, or revoked for any violation of acupuncture board rules or the Act, Subchapter F.

(f) Relicensure.

(1) If an acupuncturist's license has been expired for one year, it is considered to have been canceled, and the acupuncturist may not renew the license. The acupuncturist may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. The examination required by this section is the full NCCA examination.

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

(A) held a license previously in this state;

(B) moved to another state, province, or country;

(C) legally practiced in the other state, province, or country for not more than two years since the expiration of his or her Texas license; and

(D) files an application for relicensure under subsections (a)-(c) of this section.

(g) Approved schools. A NACSCAOM approved acupuncture school may use the word college as a means of representation to the public as long as it maintains NACSCAOM accreditation. An approved school may not represent itself as a university.

§183.20. *Texas Acupuncture Schools.*

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

(e) For purposes of licensure and regulation of acupuncturists practicing in Texas, NACSCAOM approved acupuncture schools in Texas meeting the criteria set forth in §183.2 of this title (relating to Definitions) may issue masters of acupuncture and of oriental medicine degrees in a manner consistent with the laws of the State of Texas. The Texas State Board of Acupuncture Examiners shall recognize any such lawfully issued degrees. For purposes of licensure and regulation of acupuncturists practicing in Texas, acupuncture schools in Texas which are NACSCAOM candidates for masters level programs in acupuncture and oriental medicine and who have issued diplomas or degrees during the period of candidacy, may upgrade such degrees to masters degrees upon obtaining full NACSCAOM accreditation. The Texas State Board of Acupuncture Examiners shall recognize any such lawfully upgraded degrees.

§183.22. *Continuing Acupuncture Education.*

(a) Purpose. This section is promulgated to promote the health, safety, and welfare of the people of Texas through the establishment of minimum requirements for continuing acupuncture education (CAE) for licensed Texas acupuncturists so as to further enhance their professional skills and knowledge.

(b) Minimum Continuing Acupuncture Education. As a prerequisite to the annual registration of the license of an acupuncturist, the acupuncturist shall complete 15 hours of continuing acupuncture education (CAE) each year in the following categories:

(1) The required hours shall be from courses that are designated or otherwise approved for credit by the Texas State Board of Acupuncture Examiners at the time the course was taken based

on a review and recommendation of the Education Committee of the Board.

(2) At least five of the required hours from courses shall be herbology.

(c) Reporting Continuing Acupuncture Education. An acupuncturist must report on the licensee's annual registration form the number of hours and type of continuing acupuncture education completed during the previous year.

(d) Grounds for Exemption from Continuing Acupuncture Education. An acupuncturist may request in writing and may be exempt from the annual minimum continuing acupuncture education requirements for one or more of the following reasons:

(1) catastrophic illness;

(2) military service of longer than one year in duration;

(3) acupuncture practice and residence of longer than one year in duration outside the United States; and/or

(4) good cause shown on written application of the licensee which gives satisfactory evidence to the board that the licensee is unable to comply with the requirements of continuing acupuncture education.

(e) Exemption Requests. Exemption requests shall be subject to the approval of the executive director of the board, and shall be submitted in writing at least 30 days prior to the expiration of the license.

(f) Exemption Duration and Renewal. An exemption granted under subsection (d) and (e) of this section may not exceed one year, but may be renewed annually upon written request submitted at least 30 days prior to the expiration of the current exemption.

(g) Verification of Credits. The board may require written verification of both formal and informal continuing acupuncture education hours from any licensee and the licensee shall provide the requested verification within 30 calendar days of the date of the request. Failure to timely provide the requested verification may result in disciplinary action by the Board.

(h) Nonrenewal for Insufficient Continuing Acupuncture Education. Unless exempted under the terms of this section, the apparent failure of an acupuncturist to obtain and timely report the 15 hours of continuing education hours as required and provided for in this section shall result in nonrenewal of the license until such time as the acupuncturist obtains and reports the required hours; however, the executive director of the board may issue to such an acupuncturist a temporary license numbered so as to correspond to the nonrenewed license. Such a temporary license issued pursuant to this subsection may be issued to allow the board to verify the accuracy of information related to the continuing acupuncture education hours of the acupuncturist and to allow the acupuncturist who has not obtained or timely reported the required number of hours an opportunity to correct any deficiency so as not to require termination of ongoing patient care.

(i) Fee for Issuance of Temporary License. The fee for issuance of a temporary license pursuant to the provisions of this section shall be in the amount specified under section 183.6 of this title (relating to Schedule of Fees); however, the fee need not be paid prior to the issuance of the temporary license, but shall be paid prior to the renewal of a permanent license.

(j) Application of Additional Hours. Continuing acupuncture education hours which are obtained to comply with the requirements for the preceding year as a prerequisite for licensure renewal, shall first be credited to meet the requirements for that previous year. Once the requirements of the previous year are satisfied, any additional hours obtained shall be credited to meet the continuing acupuncture education requirements of the current year.

(k) False Reports/Statements. An intentionally false report or intentionally false statement to the board by a licensee regarding continuing acupuncture education hours reportedly obtained shall be a basis for disciplinary action by the board pursuant to the Act, §6.11(a)(2), §6.11(a)(4), and §6.11(a)(5).

(l) Monetary Penalty. Failure to obtain and timely report the continuing acupuncture education hours for renewal of a license shall subject the licensee to a monetary penalty for late registration in the amount set forth in § 183.5 of this title (relating to Annual Renewal of License).

(m) Disciplinary Action, Conditional Licensure, and Construction. This section shall be construed to allow the board to impose requirements for completion of additional continuing acupuncture education hours for purposes of disciplinary action and conditional licensure.

(n) Effective Date. This section shall become effective on December 1, 1998.

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

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Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

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



Chapter 185. Physician Assistants

22 TAC §§185.4, 185.6, 185.9, 185.15, 185.25, 185.26

The Texas State Board of Medical Examiners proposes amendments to §185.4, 185.6, 185.9, 185.15, 185.25, and 185.26, relating to the physician assistants. The proposal will address the penalties for practicing without a current annual registration permit, clarify procedures for inactive status, and amend hearing procedures.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the section will be ensuring that physician assistants are practicing with a valid annual registration permit and clarifying hearing procedures. There will be no effect on small businesses. There is no anticipated

economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

The amendments are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act, and the Physician Assistant Licensing Act, Texas Civil Statutes, Article 4495b-1, §23 which authorizes the Texas State Board of Physician Assistant Examiners to adopt reasonable and necessary rules for the performance of its duties.

Article 4495b-1, Physician Assistant Licensing Act, §§9, 10, 13, and 18 are affected by these amendments.

§185.4. *Licensure.*

(a) (No change.)

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

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

(2)-(8) (No change.)

(c) (No change.)

§185.6. *Annual Renewal of License.*

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

(g) **Practicing as a physician assistant as defined in the Physician Assistant Licensing Act without an annual registration permit for the current year as provided for in the board rules has the same force and effect as and is subject to all penalties of practicing as a physician assistant without a license.**

§185.9. *Inactive License.*

(a) (No change.)

(b) **In order for a license holder to be placed on inactive status, the license holder must have a current annual registration permit.**

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

(d)[(c)] A physician assistant may return to active status by applying to the board, paying the license renewal fee, **penalty fees**, and complying with the requirements for license renewal under the Physician Assistant Licensing Act.

§185.15. *Physician Supervision.*

(a) (No change.)

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

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

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

(5) **the physician assistant's annual registration permit is current.**

§185.25. *Procedure - Prehearing.*

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

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

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

(5)-(13) (No change.)

(b)-(h) (No change.)

§185.26. *Procedure - Hearing.*

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

(g) **Default. If the respondent (applicant) fails to appear in person or by legal representation on the day and at the time set for hearing in a contested case, regardless of whether an appearance has been entered, the administrative law judge, upon motion by board staff shall enter a default judgment in the matter adverse to the respondent (applicant) who failed to attend the hearing, provided that accompanying the motion will be an affidavit of board staff averring that in the opinion of board staff, there is legally admissible credible evidence reasonably available to support the factual allegations against the respondent (applicant).**

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

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Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

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



Chapter 193. Standing Delegation Orders

22 TAC §193.9

The Texas State Board of Medical Examiners proposes new §193.9, concerning delegated drug therapy management. The new section will allow properly qualified and trained pharmacists to perform specific acts of drug therapy management under the supervision and delegation of licensed physicians.

Tony Cobos, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be to promote efficient administration and regulation of delegated drug therapy management. There will be no effect on small businesses. There will be no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

Article 4495b, Texas Civil Statutes, §3.061 is affected by this new section.

§193.9. *Delegated Drug Therapy Management.*

(a) Purpose. This section is promulgated to promote the efficient administration and regulation of the delegation by physicians to pharmacists of drug therapy management pursuant to the Medical Practice Act, §3.061 (related to Delegation of Certain Functions).

(b) Delegation. A physician licensed to practice medicine in Texas may delegate to a properly qualified and trained pharmacist acting under adequate supervision the performance of specific acts of drug therapy management authorized by the physician through the physician's order, standing medical order, standing delegation order, or other order or protocol as provided for in this section.

(c) Drug therapy management. Drug therapy management is the performance of specific acts by pharmacists as authorized by a physician through written protocol. Drug therapy management does not include the selection of drug products not prescribed by the physician unless the drug product is named in the physician initiated protocol or the physician initiated record of deviation from a standing protocol. Drug therapy management may include the following:

- (1) collecting and reviewing patient drug use histories;
- (2) ordering or performing routine drug therapy related patient assessment procedures including temperature, pulse, and respiration;
- (3) ordering drug therapy related laboratory tests;
- (4) implementing or modifying drug therapy following diagnosis, initial patient assessment, and ordering of drug therapy by a physician, as detailed in the protocol;

(5) generically equivalent drug selection if the physician's signature does not clearly indicate that the prescription must be dispensed as written, with the exception of Narrow Therapeutic Index Drugs which shall require specific written authorization by the prescribing physician for interchange of this class of drugs. For purposes of this section, Narrow Therapeutic Index Drugs shall include digoxin, phenytoin, warfarin sodium, theophylline, levothyroxine, carbamazepine, valproic acid, and lithium; or

(6) any other drug therapy related act delegated by a physician.

(d) Supervision. Physician supervision shall be considered adequate for purposes of this section if the delegating physician is in compliance with this section and the physician:

(1) is responsible for the formulation or approval of the written protocol and any patient-specific deviation from the protocol and review of the written protocol and any patient-specific deviations from the protocol at least annually and the services provided to a patient under the protocol on a schedule defined in the written protocol;

(2) has established and maintains a physician-patient relationship with each patient provided drug therapy management by a delegated pharmacist and informed the patient that drug therapy will be managed by a pharmacist under written protocol;

(3) is geographically located so as to be able to be physically present daily to provide medical care and supervision;

(4) receives, on a schedule defined in the written protocol, a periodic status report on the patient, including any problem or complication encountered;

(5) is available through direct telecommunication for consultation, assistance, and direction.

(e) Written protocol. Written protocols for purposes of this section shall mean a physician's order, standing medical order, standing delegation order, or other written order.

(1) A written protocol must contain at a minimum the following:

(A) a statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of drug therapy management;

(B) a statement identifying the individual pharmacist authorized to dispense drugs and to engage in drug therapy management as delegated by the physician;

(C) a statement identifying the types of drug therapy management decisions that the pharmacist is authorized to make which shall include:

(i) a statement of the ailments or diseases, drugs, and type of drug therapy management authorized; and

(ii) a specific statement of the procedures, decision criteria, or plan the pharmacist shall follow when exercising drug therapy management authority;

(D) a statement of the activities the pharmacist shall follow in the course of exercising drug therapy management authority, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning

specific decisions made. Documentation shall be recorded within a reasonable time of each intervention and may be performed on the patient medication record, patient medical chart, or in a separate log book; and

(E) a statement that describes appropriate mechanisms and time schedule for the pharmacist to report to the physician monitoring the pharmacist's exercise of delegated drug therapy management and the results of the drug therapy management.

(2) A standard protocol may be used, or the attending physician may develop a drug therapy management protocol for the individual patient. If a standard protocol is used, the physician shall record, what deviations if any, from the standard protocol are ordered for that patient.

(f) Review and revision of protocols.

(1) At least annually, written protocols shall be reviewed by the physician and, if necessary, revised.

(2) Documentation of all services provided to the patient by the pharmacist shall be reviewed by the physician on the schedule established in the protocol.

(g) Construction and interpretation. This section shall not be construed or interpreted to restrict the use of a pre-established health

care program or restrict a physician from authorizing the provision of patient care by use of a pre-established health care program if the patient is institutionalized and the care is to be delivered in a licensed hospital with an organized medical staff that has authorized standing delegation orders, standing medical orders, or protocols. This section may not be construed to limit, expand, or change any provision of law concerning or relating to therapeutic drug substitution or administration of medication, including the Texas Pharmacy Act, Article 4542a-1, Vernon's Texas Civil Statutes, §17(a)(5).

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 December 23, 1996.

TRD-9618637

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: February 7, 1997

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

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WITHDRAWN RULES

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

TITLE 22. EXAMINING BOARDS

**Part IX. Texas State Board of Medical
Examiners**

Chapter 193. Standing Delegation Orders

22 TAC §193.9

The Texas State Board of Medical Examiners has withdrawn from consideration for permanent adoption the proposed new §193.9, which appeared in the July 5, 1996, issue of the *Texas Register* (21 TexReg 6191).

Issued in Austin, Texas, on September 23, 1996.

TRD-9618636

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 23, 1996

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



ADOPTED RULES

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

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

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 217. Licensure and Practice

22 TAC §217.15

The Board of Nurse Examiners adopts an amendment to §217.15, concerning Continuing Education without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10269).

The staff of the Board of Nurse Examiners spends considerable time processing unacceptable continuing education credits for licensees who are being audited. A committee of the Board's staff, together with input from CE staff of the Texas Nurses Association, discussed the current continuing education rules and the difficulties licensees have encountered. As a result of the review, the committee recommended that the list of unacceptable CE be expanded, as well as expanding the list of recognized credentialing agencies/organizations in board policy to include other Boards of Nursing. The Board accepted staff's recommendations at their September meeting.

The adopted amendments will clarify for licensees which courses are not acceptable for continuing education credits and which agencies/organizations are recognized as approved providers.

No comments were received.

The amendment is adopted under the Nursing Practice Act, (Texas Civil Statutes), Article 4514, §1, which provides the Board of Nurse Examiners with the authority and power to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

Texas Civil Statutes, Article 4518 is affected by this section.

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

Issued in Austin, Texas, on December 23, 1996.

TRD-9618657

Katherine A. Thomas, MN, RN
Executive Director
Board of Nurse Examiners

Effective date: January 17, 1997

Proposal publication date: October 18, 1996

For further information, please call: (512) 305-6811

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter A. General Administration

Subchapter C. Maintenance Taxes and Fees

28 TAC §1.414

The Commissioner of Insurance adopts an amendment to §1.414, concerning assessment of maintenance taxes and fees for payment in 1997, without changes to the proposed text as published in the November 19, 1996, issue of the *Texas Register* (21 TexReg 11225). A public hearing was held on December 12, 1996.

The amendment is necessary to adjust the rates of assessment for maintenance taxes and fees for 1997 which will provide the revenue necessary to fund appropriations made by the Legislature.

Section 1.414 applies the rates to the gross premium receipts for the calendar year 1996, or some other basis designated by statute, to life, accident, and health insurance; motor vehicle insurance; casualty insurance, and fidelity, guaranty and surety bonds; fire insurance and allied lines, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts. The department anticipates the adopted rates will produce revenue of \$41,744,662 to the state's general revenue fund.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6 §21, 23.08A, 1.03A, and Article 20A.33 (the Texas Health Maintenance Organization Act), which provide authorization for the Texas Department of Insurance to assess maintenance taxes and fees for the lines of insurance and related activities specified in amended §1.414. Article 4.17 establishes a maintenance tax based on insurance premiums for life, accident, and health coverage and

the gross considerations for annuity and endowment contracts. Article 5.12 establishes a maintenance tax based on insurance premiums for motor vehicle coverage. Article 5.24 establishes a maintenance tax based on insurance premiums for casualty insurance and fidelity, guaranty and surety bonds coverage. Article 5.49 establishes a maintenance tax based on insurance premiums for fire and allied lines coverage, including inland marine. Article 5.68 establishes a maintenance tax based on insurance premiums for workers' compensation coverage. Article 9.46 establishes a maintenance fee based on insurance premiums for title coverage. Article 21.07-6 §21 establishes a maintenance tax based on the gross amount of administrative or service fees for third party administrators. Article 23.08A establishes a maintenance tax based on gross revenue of corporations issuing prepaid legal service contracts. The Texas Health Maintenance Organization Act, §33 (codified at the Insurance Code, article 20A.33), establishes an annual tax based on the gross amounts of revenues collected for the issuance of health maintenance certificates or contracts. Article 1.03A authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

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

Issued in Austin, Texas, on December 23, 1996.

TRD-9618644

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 13, 1997

Proposal publication date: November 19, 1996

For further information, please call: (512) 463-6327



28 TAC §1.415

The Commissioner of Insurance adopts an amendment to §1.415, concerning assessment of a maintenance tax surcharge which will be used to service the bonded indebtedness of the Texas Workers' Compensation Insurance Fund, without changes to the proposed text as published in the November 19, 1996, issue of the *Texas Register* (21 TexReg 11226). A public hearing was held on December 12, 1996.

The amendment is necessary to adjust the rate of maintenance tax surcharges due in 1997 on the basis of gross premium receipts for calendar year 1996 for workers' compensation companies. The surcharge will be used to service the bonded indebtedness of the Texas Workers' Compensation Fund.

The Texas Workers' Compensation Commission annually establishes and certifies to the comptroller of public accounts the rate of assessment for the maintenance taxes which are authorized to pay the cost of administering the Texas Workers' Compensation Act. The commissioner of insurance may increase the Texas Workers' Compensation Commission tax rate to a rate sufficient to pay all debt service on the bonds issued on behalf of the Texas Workers' Compensation Insurance Fund, subject to the maximum rate established by the Texas Labor Code, §404.003. The department estimates \$22,340,015 will

be generated from the maintenance tax surcharge which will be used to pay debt service for \$300 million in bonds issued in 1991 by the Texas Public Finance Authority on behalf of the Texas Workers' Compensation Fund.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 5.76-3, 5.76-5, 5.68 and 1.03A and the Texas Labor Code, §403.002. The Insurance Code, Article 5.76-3 establishes the Texas Workers' Compensation Insurance Fund. Article 5.76-5 establishes the maintenance tax surcharge. Article 5.68 establishes the maintenance tax based on premiums for workers' compensation coverage. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute. The Texas Labor Code, §403.002 establishes the maintenance tax for workers' compensation insurance companies.

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

Issued in Austin, Texas, on December 23, 1996.

TRD-9618645

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 13, 1997

Proposal publication date: November 19, 1996

For further information, please call: (512) 463-6327



Chapter 7. Corporate and Financial Regulation

Subchapter J. Examination Expenses and Assessments

28 TAC §7.1012

The Commissioner of Insurance adopts an amendment to §7.1012, concerning assessments to cover the expenses of examining insurance companies, without changes to the proposed text as published in the November 19, 1996, issue of the *Texas Register* (20 TexReg 11227). A public hearing was held on December 12, 1996.

The amendment is necessary to provide a rate of assessment for domestic and foreign insurance company examination expenses in 1997 which will provide the revenue necessary to fund the appropriations made by the Legislature.

Section 7.1012 provides the method and rates of assessment for examination expenses of foreign and domestic insurance companies. Rates of assessment are levied against and collected from each domestic insurance company based on admitted assets and gross premium receipts for the 1996 calendar year, and from each foreign insurance company examined during the 1997 calendar year based on a percentage of the gross salary paid to an examiner for each month or part of a month during which the examination is made.

The department anticipates that the adopted rate will produce revenue of \$11,546,384 to the state's general revenue fund. The expenses and charges to be assessed are in addition to, and not in lieu of, any other charge which may be made under the law, including the Insurance Code, Article 1.16.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 1.16 and 1.03A. The Insurance Code, Article 1.16(a) and (b) authorizes the commissioner of insurance to make assessments necessary to cover the expenses of examining insurance companies and to comply with the provisions of the Insurance Code, Articles 1.16, 1.17, and 1.18, in such amounts as the commissioner certifies to be just and reasonable. In addition, Article 1.16(c) provides that expenses incurred in the examination of foreign insurers by Texas examiners shall be collected by the commissioner by assessment. Article 1.03A authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

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

Issued in Austin, Texas, on December 23, 1996.

TRD-9618642

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 13, 1997

Proposal publication date: November 19, 1996

For further information, please call: (512) 463-6327



Chapter 25. Insurance Premium Finance

Subchapter E. Examinations and Annual Reports

28 TAC §25.88

The Commissioner of Insurance adopts an amendment to §25.88, concerning an assessment which will be used to cover the general administrative expense assessment of insurance premium finance companies, without changes to the proposed

text as published in the November 19, 1996, issue of the *Texas Register* (21 TexReg 11228). A public hearing was held on December 12, 1996.

The amendment is necessary to adjust the rate of assessment which is sufficient to meet the expenses of performing the department's statutory responsibilities for the regulation and examination of insurance premium finance companies.

The department levies the rate of assessment set in the section to cover the 1997 fiscal year's general administrative expense and will collect from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1996 calendar year. The department estimates that \$488,534 will be collected for the state's general revenue fund.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 24.06(c), 24.09, and 1.03A. Article 24.06(c) provides that each insurance premium finance company licensed by the department shall pay an amount assessed by the department to cover the direct and indirect cost of examinations and investigations and a proportionate share of general administrative expense attributable to regulation of insurance premium finance companies. Article 24.09 authorizes the department to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

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

Issued in Austin, Texas, on December 23, 1996.

TRD-9618643

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 13, 1997

Proposal publication date: November 19, 1996

For further information, please call: (512) 463-6327



OPEN MEETINGS

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

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

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

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

State Office of Administrative Hearings

Tuesday, April 8, 1997, 8:00 a.m.

1701 North Congress, Seventh Floor, Travis Building

Austin

Utility Division

AGENDA:

A Hearing on the Merits will be conducted at the above date and time in SOAH Docket Number 473-96-2285-Application of ENTERGY GULF STATES INC. for Approval of its Transition to Competition Plan and Implementing the Plan, and for the Authority to Reconcile Fuel Costs, to Set Revised Fuel Factors to Recover a Surcharge for Underrecovered Fuel Expenses (PUC Number 16705).

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701, 512/936-0728.

Filed: December 30, 1996, 11:16 a.m.

TRD-9618685



Texas Commission on Alcohol and Drug Abuse

Friday, January 10, 1997, 11:00 a.m.

Joe Cotton's Bar-B-Que, Highway 77 South, towards Kingsville

Robstown

Regional Advisory Council, Region XI

AGENDA:

Call to order; roll call; introduction of visitors; reading and approval of minutes; old business; new business; and adjournment.

Contact: Miguel Lopez, 3804 Casa Blanca Road, Laredo, Texas 78041, 210/718-0297.

Filed: December 30, 1996, 2:57 p.m.

TRD-9618703



State Board of Barber Examiners

Tuesday, January 7, 1997, 9:00 a.m.

333 Guadalupe Street, William P. Hobby State Building, Tower 2, Room 500

Austin

Board of Directors

AGENDA:

Opening of meeting: Roll Call: Read and possibly approve minutes of November 5, 1996 Board meeting. New Business: The Board will view a video tape from the Office of the Governor and the Higher Education Coordinating Board. The Board will view a video tape news segment made by KTRK in Houston. Discussion and possible action regarding possible legislation giving the Barber Board exclusive rule-making authority. Discussion and possible action regarding the budget hearing for the Senate Finance Committee to be held January 8, 1997. Adjournment.

Contact: B. Michael Rice, 333 Guadalupe Street, Suite 2-110, 512/305-8475.

Filed: December 30, 1996, 4:37 p.m.

TRD-9618728



Texas Board of Chiropractic Examiners

Tuesday, January 7, 1997, 10:30 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Technical Standards Committee

AGENDA:

Consideration, discussion, any appropriate action, and/or approval of: A. Charges for copies of records; B. Standard of care; C. Solicitation; D. Needle EMG; E. Preschool physicals; F. Fee Splitting; G.

Chelation therapy/Oxygen therapy; H. Barratry; I. Immunizations (Flu shots); J. Referral incentives; K. In-House PPO.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:53 p.m.

TRD-9618695



Tuesday, January 7, 1997, 10:30 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Licensure and Educational Standards Committee

AGENDA:

Consideration, discussion, any appropriate action, and/or approval of: A. Ratification of December 1996 examinees; B. Request for reinstatement of license: Ken Kitching, D.C.; C. Continuing Education topic and assignment of Board members for 1997 License Renewal Seminars; D. Request for reinstatement of license: Paul Matthews, D.C., John Bailey, D.C.; E. Continuing Education Reporting Period Changes;

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:51 p.m.

TRD-9618693



Tuesday, January 7, 1997, 11:30 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Enforcement Committee

AGENDA:

Consideration, discussion, any appropriate action, and/or approval of: A. Enforcement actions- September 1, 1996 through December 24, 1996; B. Policy and Procedure changes; C. Request for reversal of committee action: 96-214, Michael Davis D.C.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:51 p.m.

TRD-9618692



Tuesday, January 7, 1997, 12:00 p.m.

333 Guadalupe, Tower III, Suite 825

Austin

Rules Committee

AGENDA:

Consideration, discussion, any appropriate action, and/or approval of: A. Update on Correction Submission; B. Final adoption: Section 71.6: Time, Place and Scope of Examination; Section 78.1: Registration of Chiropractic Radiologic Technologists; C. Final repeal: Section 71.12; National Board Examination.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:52 p.m.

TRD-9618694



Tuesday, January 7, 1997, 12:30 p.m.

333 Guadalupe, Tower III, Suite 825

Austin

Executive Committee

AGENDA:

Consideration, discussion, any appropriate action, and/or approval of: A. Appointment of Ad Hoc committee on Legislation; B. Appointment of Ad Hoc committee on Workers' Compensation.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:51 p.m.

TRD-9618691



Tuesday, January 7, 1997, 2:30 p.m.

333 Guadalupe, Tower III, Room 100

Austin

AGENDA:

The Texas Board of Chiropractic Examiners will meet on Wednesday, January 7, 1997 at 2:30 p.m. to consider, discuss, take any appropriate action, and/or approve:

I. Minutes of the November 8, 1996 Texas Board of Chiropractic Examiners meeting;

II. Report of the President on Board activities and the Chiropractic profession;

III. Report of the Executive Director on administration, budget, internal policy and procedure, personnel, and general information on licensees;

IV. Committee Reports: A. Enforcement Committee Report; 1. Enforcement actions- September 1, 1996 through December 24, 1996; 2. Policy and Procedure changes; 3. Request for reversal of committee action: 96-214, Michael Davis, D.C.; B. Licensure and Educational Standards Committee: 1. Ratification of December 1996 examinees; 2. Request for reinstatement of license: Ken Kitching, D.C.; 3. Continuing Education topic and assignment of Board members for 1997 License Renewal Seminars; 4. Request for reinstatement of license: Paul Matthews, D.C., John Bailey, D.C.; 5. Continuing education reporting period changes; C. Technical Standards Committee: 1. Charges for copies of records; 2. Standard of care; 3. Solicitation; 4. Needle EMG; 5. Preschool physicals; 6. Fee splitting; 7. Chelation therapy/ Oxygen therapy; 8. Barratry; 9. Immunizations (Flu shots); 10. Referral incentives; 11. In-House PPO; D. Executive Committee: 1. Appointment of Ad Hoc Committee on Legislation; 2. Appointment of Ad Hoc Committee on Worker's Compensation; E. Rules Committee; 1. Update on Correction Submission; 2. Final adoption: Section 71.6: Time, Place and Scope of Examination; Section 78.1: Registration of Chiropractic

Radiologic Technologists; 3. Final repeal: Section 71.12: National Board Examination;

V. Records Retention Plan

VI. Executive Session: The Board may from time to time meet in Executive Session to consult with its attorneys regarding pending litigation authorized by Section 555.071 of the Government Code. The Board may also consult with its attorney regarding personnel matters authorized by Section 551.074 of the Government Code;

VII. Action regarding Executive Session

VIII. Items to be considered for future agenda

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, 512/305-6700.

Filed: December 30, 1996, 2:53 p.m.

TRD-9618696



Texas Department of Commerce

Friday, January 10, 1997, 8:30 a.m.

1700 North Congress Avenue, Suite 300, Third Floor Conference Room

Austin

International Trade Commission

AGENDA:

8:30 a.m. Call to Order; Report from Executive Director; Update on International Trade Programs, Update on Tourism International Efforts, Authorize Approval, Execution and Submission of Commission's Report to the Governor, Lieutenant Governor and the Legislature, Public Comments; Adjourn.

Contact: Shirley Zimmerman, 1700 North Congress Avenue, Austin, Texas 78701, 512/936-0158.

Filed: December 31, 1996, 9:48 a.m.

TRD-9618750



State Board of Educator Certification

Friday, January 10, 1996, 2:00 p.m.: Saturday, January 11, 1997, 9:00 a.m.

1001 Trinity, Board Room,

Austin

Board

AGENDA:

1. Call to Order.
2. Approve December Minutes.
3. Executive Director's Update-a) Budget Report, b) Communication Plan, c) Planning Update, d) Legislative Appropriations Request, e) Discuss the recommendations for the Partnerships for Professional Development Grants, f) Staff Report, g) Other.
4. Adopt procedure to evaluate the Executive Director.

5. Propose rules relating to the American Sign Language (ASL) Certificate.

6. Approve the Center for Professional Development and Teaching for Texas A&M University International.

7. Approve the passing standards, examinee fees, and assessment instruments of the Texas Oral Proficiency Test (TOPT-Spanish).

8. Discuss input received on the Code of Ethics.

9. Appoint members to the Reading Certification Advisory Committee.

10. Appoint members to the Principal Certificate Advisory Committee.

11. Appoint members to the Superintendent Certificate Advisory Committee.

Saturday, January 11th: 1. Call to order. 2. Work Session on the Framework for Educator Preparation and Certification.

Contact: Dawn Copra, 1001 Trinity, Austin, Texas 78711, 512/469-3005

Filed: December 30, 1996, 2:50 p.m.

TRD-9618687



Texas Commission on Fire Protection

Thursday, Friday, January 9 and 10, 1997, 9:00 a.m.

12675 North Research

Austin

Commission

REVISED AGENDA:

- I. Subcommittee on advisory council appointments.
- II. Executive Session under Section 551.074, Texas Government Code.
- III. Open session for further discussion, possible action regarding preceding agenda item.
- IV. Discussion, possible action regarding reports or recommendations from State Auditor and the Survey of Organizational Excellence.
- V. Matters from the Executive Director.
- VI. Discussion, possible action on report from the subcommittee.
- VII. Matters referred from the Fire Protection Personnel Advisory Committee.
- VIII. Matters referred from the Volunteer Fire Fighter Advisory Committee.
- IX. Discussion, possible action resulting from reports by Commission representative to the Firemen's Training School Advisory Board, the Texas A&M University System regarding other fire protection training provided by Texas A&M.
- X. New matters from the public not included in preceding agenda items which may be discussed in future meetings.
- XI. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research, Austin Texas 78759, 512/918-7100.

Filed: December 30, 1996, 3:20 p.m.

TRD-9618706

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Texas Department of Human Services, Region Three

Wednesday, January 8, 1997, 11:00 a.m.

Arlington Human Services Center, 401 West Stanford, Room 110

Arlington

Office on Services to Persons with Disabilities (OSDP)/Subcommittee on Services to Persons with Disabilities (SSPD) Regional Consumer Meeting

AGENDA:

This is part of a statewide series of consumer meetings with the goal of providing a more effective vehicle for receiving consumer and advocate input about policies, programs and services for Texans with disabilities.

Contact: Beverly Young, P.O. Box 149030, Austin, Texas 78714-9030, 512/483-3233.

Filed: December 31, 1996, 9:59 a.m.

TRD-9618751

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General Land Office

Tuesday, January 7, 1997, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

School Land Board

AGENDA:

Approval of previous board meeting minutes; opening and consideration of bids received for the January 7, 1997 special oil and gas lease sale; lease suspension application, Guadalupe River, Victoria County; pooling applications, Fandango, East Field, Jim Hogg and Zapata Counties; Clay, North East (Austin Chalk 11350) and (Georgetown) fields, Burleson County; Keystone (San Andres and Holt), Winkler County; State Tract 60-S West, Jefferson County; Royalty Incentive applications, Hawk Eye (Adams Branch) field, Eastland County; Nueces Bay (2300), Nueces County; coastal public lands — structure (cabin) permit terminations and requests, Laguna Madre, Kenedy County; commercial easement applications and renewals, Carancahua Bay, Calhoun County; Adams Bayou, Orange County; Executive Session — consideration of acquisition of forfeited veterans tract, Roberts County, Executive Session- pending or contemplated litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, Room 836, 512/463-5016.

Filed: December 30, 1996, 4:12 p.m.

TRD-9618709

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Texas Department of Licensing and Regulation

Thursday, January 9, 1997, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, James Michael Smith, for failing to provide proper service, installation and mechanical integrity in violation of Texas Revised Civil Statutes Annotated article 8861 (the Act) §5a, and for failing to include his license number on an invoice in violation of 16 Texas Administrative Code (T.A.C.) §75.50(d), 1993 revised at §75.70(j), pursuant to the Act and article 9100, Texas Government Code chapter 2001 (APA), and 16 T.A.C. chapters 60 and 75.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, 512/463-3192.

Filed: December 30, 1996, 2:50 p.m.

TRD-9618689

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Thursday, January 9, 1997, 10:30 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Bob Geller, for engaging in air conditioning and refrigeration contracting without a licence in violation of Texas Revised Civil Statutes Annotated article 8861 (the Act) §3B, and for advertising that he engages in the business of air conditioning and refrigeration contracting without obtaining a license in violation of the Act, §5(a), pursuant to the Act and article 9100, Texas Government Code chapter 2001 (APA), and 16 T.A.C. chapters 60 and 75.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, 512/463-3192.

Filed: December 30, 1996, 2:51 p.m.

TRD-9618690

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Texas Lottery Commission

January 7, 1997, 9:30 a.m.

6937 North IH35, American Founder's Building, First Floor Auditorium

Austin

AGENDA:

Call to order/roll call; Approval of minutes of the November 26, 1996 and December 19, 1996 meetings; Executive Session to seek legal advice regarding employment law and personnel matters; Return to open session for further discussion and possible action regarding legal advice; Executive session to consider the employment, evaluation, reassignment, duties or dismissal of the Executive Director; Return to open session for further discussion and possible action involving the employment, evaluation, reassignment, duties or dismissal of the Executive Director; Executive session to consider the appointment, employment and duties of an Acting Executive Director; Return to open session for further discussion and possible action involving the appointment, employment, and duties of an Acting Executive Director; Report by the Bingo Advisory Committee Chair and possible discussion and action; report and possible action on regulatory statistics; Consideration of and possible action on the lottery operator contract; Consideration of and possible action, including extension, on the instant ticket vending machine contract; consideration of and possible discussion and action on the procurement processes used by the agency and composition of procurement teams. Consideration of and possible action on the acquisition of a location for the lottery headquarters; Report, discussion and possible action on status of instant tickets and services contract and requests for proposals for instant tickets and services contract; Report, discussion, and possible action on the agency's personnel policy manual; Consideration of and possible action on proposed legislation; Consideration of and possible action, including adoption, on amendments to 16 Texas Administrative Code §401.307; Consideration and possible action including adoption of the repeal of 16 Texas Administrative Code §401.362 and of new rule 16 Texas Administrative Code §401.362; Report and possible discussion and action on the FY 1996 Financial Audit; Consideration and possible action on resources available to the Commission for conducting its business; Consideration of and possible action concerning the State Auditors Activities Consideration of the status and possible entry of an order in any contested case if a proposal for decision has been received from the assigned administrative law judge and the time period has lapsed for the filing of exceptions and replies; Consideration of and possible action on a motion for rehearing filed in Docket Number 362-96-0868. B-LULAC 4484-J v. Texas Lottery Commission; Commission may meet in Executive Session; return to open session for further deliberation and possible action on any matter discussed in Executive Session; Report by Executive Director and/or Deputy Executive Director and possible discussion and/or action on the operation of the agency, Commission planning calendar, financial status of the agency, HUM performance and NASP: 2000 conference; Adjournment.

For ADA assistance, call Michelle Guerrero at 512/323-3791 at least two days prior to meeting.

Contact: Michelle Guerrero, 6937 North IH35, Austin, Texas 78752, 512/323-3791.

Filed: December 30, 1996, 3:19 p.m.

TRD-9618705



Texas State Board of Medical Examiners

Wednesday, January 8, 1997, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Hearings Division

AGENDA:

Probation Appearance, 9:00 a.m.- Alberto N. Martinez, MD, Junction, Texas

Probation Appearance, 10:15 a.m.- Carol T. Ewing, MD, Port Arthur, Texas

Probation Appearance, 10:15 a.m.- James F. Garner, MD, Houston, Texas

Probation Appearance, 11:15 a.m.- Richard J. Kondejewski, MD, League City, Texas

Probation Appearance, 1:00 p.m.- Robert J. Kilian, MD, Lake Jackson, Texas

Probation Appearance, 2:00 p.m.- Daniel A. Boudreau, DO, Mesquite, Texas

Probation Appearance, 2:00 p.m.- William L. Cowden, MD, Richardson, Texas

Probation Appearance, 2:00 p.m.- Castilla A. Darby, MD, Dallas, Texas

Probation Appearance, 2:00 p.m.- Darryl D. Nix, DO, Arlington, Texas

Probation Appearance, 3:00 p.m.- Joe W. Rhoades, DO, Fort Worth, Texas

Probation Appearance, 3:00 p.m.- Bruce S. Hinkley, MD, Arlington, Texas

Probation Appearance, 3:00 p.m.- Febe Linda Panal Oro, MD, Denison, Texas

Modification Request, 9:45 a.m.- Dennis M. Shaughnessy, MD, Midland, Texas

Termination Request, 9:15 a.m.-Thomas C. Branch, MD, Plainview, Texas

Termination Request, 11:45 a.m.- Mark A. Williamson, MD., Houston, Texas

Termination Request, 1:00 p.m.- Robert J. Kilian, MD, Lake Jackson, Texas

Termination Request, 1:30 p.m.- David M. McClellan, MD, Crosby, Texas

Executive session under authority of the Open Meetings Act, Section 661.071 of the Government Code, and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes, regarding pending or contemplated litigation.

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, 512/305-7016

Filed: December 31, 1996, 9:19 a.m.

TRD-9618740



Texas Natural Resource Conservation Commission

Wednesday, January 8, 1997, 9:30 a.m.

Room 201S, Building E, 12118 North Interstate 35
Austin

AGENDA:

The Commission will meet in Executive Session.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, 512/239-3317.

Filed: December 30, 1996, 2:54 p.m.

TRD-9618699



Texas State Board of Plumbing Examiners

Thursday and Friday, January 9-10, 1997, 9:00 a.m.

929 East Fortyfirst Street

Austin

Enforcement Committee

AGENDA:

January 9 and 10, 1997, 9:00 a.m.- Call to order and roll call.

Consideration of Minutes of November 18, 1996 and November 19, 1996 Enforcement Committee Meeting for Adoption as Recorded.

Review of Citation List and Possible Action

Discussion and Possible Financial Interest in a Firm, Company or Corporation Using Master Plumber's License?"

Discussion of Social Security Number on Plastic License and Possible Action.

Complaint Cases for Review:

The following cases will be reviewed by and possibly acted upon by the Committee as time allows: Those cases not reviewed on January 9, 1997 will be rescheduled for January 10, 1997. Time may not allow for all cases listed to be reviewed: 96-0556, 97-0196, 96-0273, (97-0165, 97-0166, 97-0167, 97-0168, 97-0175), 967-0596, 97-0041, 97-0042, 96-0589, 96-0078, 96-0260, 96-0261, 95-0517, 96-0012, 96-0060, 96-0030, 96-0058, 96-0111, 96-0123, 96-0125, 96-0147, 96-0149, 96-0139, 96-0114, 96-0158, 95-0314, 96-0043, 96-0130, 95-0362, 95-0359, 96-0184, 95-0483, 96-0034, 96-0031, 96-0098, 96-0403, 95-0426, 96-0027, 960-0279, 96-0264, 96-0285, 95-0471, 96-0392, 95-0403, 95-0489, 96-0455, 96-0418, 96-0464, 96-0604, 96-0159, 95-0450, 96-0605, 96-0400, 96-0156, 96-0245, 96-0591, 96-0467, 97-0002, 96-0466, 96-0138, 96-0421, 96-0286, 97-0022, 95-0456.

Contact: Robert L. Maxwell, 929 East Fortyfirst Street, Austin, Texas, 78751, 512/458-2145.

Filed: December 30, 1996, 10:51 a.m.

TRD-9618684



Texas State Board of Examiners of Psychologists

Thursday and Friday, January 23, 24, 1997, 9:30 a.m. and 8:30 a.m. respectively

333 Guadalupe, Suite 2-225

Austin

Psychological Associate Advisory Committee

AGENDA:

The Psychological Associate Advisory Committee to the Texas State Board of Examiners of Psychologists will meet to consider public comments, minutes of the October 1996 meeting; rules; reports from the Chair of the Committee, the Executive Director of the Agency and the General Counsel of the Agency; reports from the following sub-committees; Disciplinary Sanctions, Financial Advisory, legislative, Legal Issues, Policies and Procedures, Public Information and Relations, Professional/Ethical Standards and Development, Professional Reimbursement Guidelines, Publications and Research, and Supervisory Guidelines. The Committee will also plan for the next Advisory Committee meeting and will hold an executive session to seek legal advice.

Contact: Sherry L. Lee, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, 512/305-7700.

Filed: December 30, 1996, 4:43 p.m.

TRD-9618729



Public Utility Commission of Texas

Wednesday, January 8, 1997, 9:00 a.m.

1701 North Congress Avenue

Austin

AGENDA:

There will be an Open Meeting for discussion, consideration, and possible action regarding: Docket Number 16744 (SOAH Number 473-96-2315) Application of MCIMetro Transmission Services, Inc., for a Certificate of Operating Authority; Project Number 15001- Stranded Costs or Excess Costs Over Market and Legislative Recommendation; Project Number 15002, Scope of Competition in the Electric Industry in Texas and Legislative Recommendation; Discussion of legislative matters; Project assignments, correspondence, staff reports, audit, agency administrative procedures, budget, consumer affairs/protection/enforcement, fiscal matters and personnel policy; Adjournment for closed session to consider litigation and personnel matters; Re-convene for discussion and decisions on matters considered in closed session.

Contact: Paula Mueller, 1701 North Congress Avenue, Austin, Texas 78701, 512/936-7007

Filed: December 30, 1996, 2:57 p.m.

TRD-9618704



Texas Department of Public Safety

Monday, January 13, 1997, 10:00 a.m.

Department of Public Safety Headquarters, 5805 North Lamar,

Austin

Public Safety Commission

AGENDA:

Approval of Minutes; Budget Matters, Internal Audit Report; Personnel Matters; Pending and Contemplated Litigation; Real Estate Mat-

ters; Public Comment; Miscellaneous and Other Unfinished Business; Discharge Appeal Hearing of DPS Employee Clark Kilpatrick

Contact: Dudley M. Thomas, 5805 North Lamar, Austin, Texas 78752, 512/424-2000.

Filed: December 31, 1996, 8:07 a.m.

TRD-9618731



Railroad Commission of Texas

Tuesday, January 7, 1997, 9:30 a.m.

1701 North Congress, First Floor Conference Room 1-111

Austin

REVISED AGENDA:

Proposal of Gas Research Institute for Post-1997 funding mechanism, pending in FBRC Docket Number RP-97-149-000.

To consider Rio Petroleum Inc.'s applications for Rule 37 Case Number 0210331, for an exception to Statewide Rule 34/38 for the Powell "D" Unit, Well Number 3, and Docket Number 10-0210155, pursuant to the Mineral Interest Pooling Act for the Powell Lease, Well Number D-3, Lathem (Canyon Granite Wash) Field, Hartley County, Texas.

Contact: Lindil C. Fowler, Jr. P.O. Box 12967, Austin, Texas 78711-2967, 512/463-7033.

Filed: December 30, 1996, 2:56 p.m.

TRD-9618701



Tuesday, January 7, 1997, 9:30 a.m.

1701 North Congress, First Floor Conference Room 1-111

Austin

REVISED AGENDA:

Discussion and action concerning Railroad Commission Chairmanship.

Contact: Bob Baird, P.O. Box 12967, Austin, Texas 78711-2967, 512/463-7144.

Filed: December 30, 1996, 2:56 p.m.

TRD-9618702



Recycling Market Development Board

Thursday, January 9, 1997, 10:00 a.m.

Stephen F. Austin Building, Room 831, 1700 North Congress Avenue, Room 831

Austin

Board

AGENDA:

I. Call to order

II. Announcements

III. Reading of minutes of November 7, 1996 Meeting

IV. Old Business — 1) Consideration of items deferred from the November 7, 1996 Board Meeting: (i) Requiring recycling volume reports from commercial recyclers, (ii) Requesting changes in fertilizer recommendations as applied to compost; 2) Report on changes to be sought in statute adding the Recycle Market Development Board to the list of entities receiving copies of the annual recycled purchase reports; 3) Report on issue of addressing surplus property definitions with regard to recycling and reuse; 4) Approval of reminder letter and update on number of agency recycled purchase reports submitted.

V. New Business — 1) Approval of letter to be sent to Legislators outlining RMDB policy recommendations for recycling; 2) Progress report on RMDB action Plan for Fiscal Year 1997; 3) Final report on 1996 Texas Recycles Day

VI. Public Comment

VII. Adjourn

Contact: Terry Robinson, 1700 North Congress Avenue, Room 620, Austin, Texas 78701, 512/463-5344.

Filed: December 31, 1996, 9:20 a.m.

TRD-9618742



Research and Oversight Council on Workers' Compensation

Wednesday, January 15, 1997, 1:00 p.m.

Capitol Extension, Room E1.012

Austin

AGENDA:

1. Call to order

2. Roll call

3. Approval of Minutes from September 25, 1996

4. Report and discussion on Facility transition

5. ROC Business; Discussion and action on 1996 Biennial Report

6. Public Participation

7. Set next meeting

8. Adjourn

Individuals who may require auxiliary aids or services for this meeting should contact Nancy Bitting at 512/469-7811 at least two days prior to the meeting so that appropriate arrangements can be made.

Contact: Nancy Bitting, 105 West Riverside Drive, Suite 100, Austin, Texas 78704

Filed: December 31, 1996, 9:24 a.m.

TRD-9618747



The University of Texas System

Monday, January 6, 1997, 9:00 a.m.

Regent's Conference Room, Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street

Austin

Board of Regent's Business Affairs and Audit Committee

AGENDA:

The Business Affairs and Audit Committee will meet in Open Session to consider the status of ongoing projects, meetings with rating agencies, the FY 1996 Financial Report, the Information Technology Initiative, University Lands Web Site, and certain audit issues and also recess to a Briefing Session as authorized by law.

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701-2981; 512/499-4402.

Filed: December 31, 1996, 9:30 a.m.

TRD-9618749



Texas Council on Workforce and Economic Competitiveness

Wednesday, January 8, 1997, 2:00 p.m.

3000 South IH35, Suite 200

Austin

Executive Committee

AGENDA:

2:00 p.m.- Call to Order; Public Comment; Action Item: Consideration of the Dallas Strategic and Operational Plan for Workforce Development; Adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, 512/912-7158 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768-512/912-7158.

Filed: December 30, 1996, 2:53 p.m.

TRD-9618697



Regional Meetings

Meetings Filed December 30, 1996

The Aqua Water Supply Corporation, Board of Directors met at 305 Eskew, Bastrop, on January 6, 1997, at 7:30 p.m. Information may be obtained from Carol Ducloux, 305 Eskew, Bastrop, Texas 78602, (512) 303-3943. TRD-9618710.

The Dallas Area Rapid Transit, President's Luncheon will meet at 1400 Pacific Avenue, Executive Conference Room "A" Second Floor, Dallas, on January 7, 1997 at Noon. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9618707.

The Dallas Area Rapid Transit, North Central Light Rail Tunnel Tour met at the Park Lane Light Rail Station, 8169 Park Lane, Dallas, on January 2, 1997 at 7:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9618708.

The Erath County Appraisal District, Appraisal District Review Board will meet at 1390 Harbin Drive, Stephenville, on January 14, 1997 at 9:00 a.m. Information may be obtained from Edna Vara, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9618722.

Meetings Filed December 31, 1996

The Dallas Housing Authority, Dallas Housing Authority Board of Commissioners will meet at the Melrose Hotel, 3015 Oaklawn Avenue, Dallas, on January 9, 1997 at 8:00 a.m. Information may be obtained from Betsy Horn, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8302. TRD-9618741.

The District Judges' Meeting 36th, 156th and 343rd, District Courts met at 400 West Sinton Street, Room 207, Sinton, on January 3, 1997 at 1:30 p.m. Information may be obtained from Ronald M. Yeager, 400 West Sinton Street, Room 207, Sinton, Texas 78387, (512) 364-6200. TRD-9618739.

The Edwards Aquifer Authority, Finance Committee met at 1615 North St. Mays Street, San Antonio, on January 6, 1997, at 2:30 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9618735.

The Edwards Aquifer Authority, Legal Committee met at 1615 North St. Mays Street, San Antonio, on January 6, 1997, at 4:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9618734.

The Edwards Aquifer Authority, Legislative Sub-committee met at 1615 North St. Mays Street, San Antonio, on January 6, 1997, at 6:30 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9618732.

The Kendall Appraisal District, Appraisal Review Board will meet at 121 South Main Street, Boerne, at 9:00 a.m. Information may be obtained from Alton Pfeiffer, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9618748.

The San Antonio-Bexar County Metropolitan Planning Organization, Technical Advisory Committee will meet at 603 Navarro, South Texas Building, Fourth Floor, Conference Room, San Antonio, on January 7, 1997 at 1:30 p.m. Information may be obtained from Joe Coleman, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD-961753.

The San Antonio-Bexar County Metropolitan Planning Organization, Bicycle Mobility Task Force will meet at the Municipal Plaza Building, "B" Room, Main and Commerce, San Antonio, on January 8, 1997 at 4:00 p.m. Information may be obtained from Joe Coleman, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD-961754.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Agriculture

Seed Administrative Penalty Matrix

The Department of Agriculture (the department) is publishing the following administrative penalty matrix to inform the regulated public. This matrix has been developed to provide consistent, uniform, and fair penalties for violators of Chapter 61, Subchapter B, Texas Agriculture Code, (the Code) and will replace the previous matrix as published in the May 5, 1995, issue of the *Texas Register* (20 TexReg 3371). The department's authority for the enforcement of Chapter 61 is found in the Code, §12.020 whereby the department may assess administrative penalties for each violation.

This matrix is based upon current information and reflects current industry trends. As the enforcement of these types of violations continues and additional data are gathered, the matrix will be reviewed and if need be, adjusted to reflect any changes in the information upon which the current matrix is based.

For each type of offense there is a penalty range for initial violations. The range increases for subsequent violations. The ranges were established by considering the criteria set forth in the Code, §12.020(d): (1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public; (2) the damage to property or the environment caused by the violation; (3) the history of previous violations; (4) the amount necessary to deter future violations; (5) efforts to correct the violation; and (6) any other matter that justice may require.

Due to the nature of the seed industry, the potential for hazard to the health or safety of the public is unlikely. However, the hazard or potential hazard to the horticultural or agricultural community will be applied to the violations. This factor will be considered on a case-by-case basis.

The low end of each range is the presumptive base penalty for each violation, and represents an appropriate penalty for violations which are considered "minor" with respect to the criteria set forth in the Code, §12.020(d). Penalties may be increased to the maximum within each range as the department considers the circumstances and facts of each violation in light of the criteria in the Code, §12.020(d). Additional adjustments in the penalty may be allowed for extenuating circumstances as justice requires.

The penalty matrix takes into consideration prior violations of the same type which will result in an increased administrative penalty. This is expressed by the use of levels: 1st Level No previous violation(s) of the same type within past 3 calendar years, beginning January 1, 1997. 2nd Level Violation(s) of the same type in 1 year of past 3 calendar years, beginning January 1, 1997. 3rd Level Violation(s) of the same type in 2 calendar years of past 3 calendar years, beginning January 1, 1997. 4th Level Violation(s) of the same type in each of past 3 calendar years, beginning January 1, 1997.

This penalty matrix will be effective for penalties assessed on or after the date of publication.

[graphic]

[graphic]

[graphic]

[graphic]

[graphic]

Issued in Austin, Texas, on December 31, 1996.

TRD-9618756

Dolores Alvarado Hibbs
Deputy General Counsel

Texas Department of Agriculture
Filed: December 31, 1996



Texas Department of Housing and Community Affairs-Manufactured Housing Division

Notice of Administrative Hearing (MHD1997000807M)

Friday, January 10, 1997, 9:00 a.m.

State Office of Administrative Hearing, 300 West 15th Street, Suite 502

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Clifford Bell on denial of certificate of registration as a salesperson in accordance with the Texas Manufactured Housing Standards Act, Texas Revised Statutes Annotated, article 5221f, §§7(l) and 7(k)(8) and 10 Texas Admin. Code, §80.125(j). SOAH 332-96-2428. Department MHD1997000807-M.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on December 31, 1996.

TRD-9618736

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: December 31, 1996



Texas Department of Human Services

Closed Solicitation for LaSalle County

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2324, in the March 31, 1995, issue of the *Texas Register* (20 TexReg 2443), the Texas Department of Human Services (TDHS) is closing the solicitation for new Medicaid beds in Lasalle County, County Number 142, which appeared in the September 5, 1995, issue of the *Texas Register* (20 TexReg.6949). The solicitation is being closed effective the date of this public notice.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618712

Glenn Scott

Agency Liaison

Texas Department of Human Services

Filed: December 30, 1996



Open Solicitation for Upton County

Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2324, in the March 31, 1995, issue of the *Texas Register* (20 TexReg. 2443), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation

period for Upton County, County Number 231, identified in the November 19, 1996, issue of the *TexReg* 21 (11318). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced county must submit a written reply (as described in 40 TAC §19.2324) to TDHS, Gary L. Allen, Certification, Provider Enrollment, & Billing Services, Long Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618711

Glenn Scott

Agency Liaison

Texas Department of Human Services

Filed: December 30, 1996



Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a new PLEXAR-Custom Service for Medpartners in San Antonio, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for New PLEXAR-Custom Service for Medpartners in San Antonio, Texas, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 16805.

The Application. Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Medpartners in San Antonio, Texas. The geographic service market for this specific service is the San Antonio, Texas, area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with Texas telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618727

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: December 30, 1996



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a new PLEXAR-Custom Service for Duncanville ISD in Duncanville, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for New PLEXAR-Custom Service for Duncanville

ISD in Duncanville, Texas, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 16814.

The Application. Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Duncanville ISD in Duncanville, Texas. The geographic service market for this specific service is the Dallas, Texas, area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with Texas telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618723
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: December 30, 1996



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a 20 station addition to the existing PLEXAR-Custom Service for Bank One in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for 20 Station Addition to Existing PLEXAR-Custom Service for Bank One in Fort Worth, Texas, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 16815.

The Application. Southwestern Bell Telephone Company is requesting approval for a 20 station addition to the existing PLEXAR-Custom service for Bank One in Fort Worth, Texas. The geographic service market for this specific service is the Dallas, Texas, area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with Texas telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618724
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: December 30, 1996



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a 459 station addition to the existing PLEXAR-Custom Service for Nations Bank-Fort Worth in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for 459 Station Addition to Existing PLEXAR-Custom Service for Nations Bank-Fort Worth in Fort Worth, Texas, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 16816.

The Application. Southwestern Bell Telephone Company is requesting approval for a 459 station addition to the existing PLEXAR-Custom service for Nations Bank-Fort Worth in Fort Worth, Texas. The geographic service market for this specific service is the Dallas, Texas, area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with Texas telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618725
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: December 30, 1996



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27 for approval of a new PLEXAR-Custom Service for Texas A&M University Institute of Biosciences and Technology in College Station, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for a New PLEXAR-Custom Service for Texas A&M University Institute of Biosciences and Technology in College Station, Texas, Pursuant to Public Utility Commission SUBSTANTIVE RULE 23.27. Tariff Control Number 16817.

The Application. Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Texas A&M University Institute of Biosciences and Technology in College Station, Texas. The geographic service market for this specific service is the Houston, Texas, area.

Persons who wish to comment upon the action sought should contact the Public utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Consumer Affairs Section at (512) 936-7120. Hearing and speech-impaired individuals with Texas telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on December 30, 1996.

TRD-9618726
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: December 30, 1996



January - December 1997 Publication Schedule

The following is the January-December 1997 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. No issues will be published on May 30, November 14, December 2, and December 30. An asterisk beside a publication date indicates that the deadlines are early due to state holidays.

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
1 Friday, January 3	*Monday, December 23	Monday, December 30	Monday, December 30
2 Tuesday, January 7	Monday, December 30	*Tuesday, December 31	*Tuesday, December 31
3 Friday, January 10	*Tuesday, December 31	Monday, January 6	Monday, January 6
4 Tuesday, January 14	Monday, January 6	Wednesday, January 8	Wednesday, January 8
5 Friday, January 17	Wednesday, January 8	Monday, January 13	Monday, January 13
6 Tuesday, January 21	Monday, January 13	Wednesday, January 15	Wednesday, January 15
7 Friday, January 24	Wednesday, January 15	*Friday, January 17	*Friday, January 17
Tuesday, January 28	<i>1996 Annual Index</i>		
8 Friday, January 31	Wednesday, January 22	Monday, January 27	Monday, January 27
9 Tuesday, February 4	Monday, January 27	Wednesday, January 29	Wednesday, January 29
10 Friday, February 7	Wednesday, January 29	Monday, February 3	Monday, February 3
11 Tuesday, February 11	Monday, February 3	Wednesday, February 5	Wednesday, February 5
12 Friday, February 14	Wednesday, February 5	Monday, February 10	Monday, February 10
13 Tuesday, February 18	Monday, February 10	Wednesday, February 12	Wednesday, February 12
14 Friday, February 21	Wednesday, February 12	*Friday, February 14	*Friday, February 14
15 Tuesday, February 25	*Friday, February 14	Wednesday, February 19	Wednesday, February 19

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16 Friday, February 28	Wednesday, February 19	Monday, February 24	Monday, February 24
17 Tuesday, March 4	Monday, February 24	Wednesday, February 26	Wednesday, February 26
18 Friday, March 7	Wednesday, February 26	Monday, March 3	Monday, March 3
19 Tuesday, March 11	Monday, March 3	Wednesday, March 5	Wednesday, March 5
20 Friday, March 14	Wednesday, March 5	Monday, March 10	Monday, March 10
21 Tuesday, March 18	Monday, March 10	Wednesday, March 12	Wednesday, March 12
22 Friday, March 21	Wednesday, March 12	Monday, March 17	Monday, March 17
23 Tuesday, March 25	Monday, March 17	Wednesday, March 19	Wednesday, March 19
24 Friday, March 28	Wednesday, March 19	Monday, March 24	Monday, March 24
25 Tuesday, April 1	Monday, March 24	Wednesday, March 26	Wednesday, March 26
26 Friday, April 4	Wednesday, March 26	Monday, March 31	Monday, March 31
Tuesday, April 8	<i>First Quarterly Index</i>		
27 Friday, April 11	Wednesday, April 2	Monday, April 7	Monday, April 7
28 Tuesday, April 15	Monday, April 7	Wednesday, April 9	Wednesday, April 9
29 Friday, April 18	Wednesday, April 9	Monday, April 14	Monday, April 14
30 Tuesday, April 22	Monday, April 14	Wednesday, April 16	Wednesday, April 16
31 Friday, April 25	Wednesday, April 16	Monday, April 21	Monday, April 21
32 Tuesday, April 29	Monday, April 21	Wednesday, April 23	Wednesday, April 23
33 Friday, May 2	Wednesday, April 23	Monday, April 28	Monday, April 28
34 Tuesday, May 6	Monday, April 28	Wednesday, April 30	Wednesday, April 30
35 Friday, May 9	Wednesday, April 30	Monday, May 5	Monday, May 5
36 Tuesday, May 13	Monday, May 5	Wednesday, May 7	Wednesday, May 7
37 Friday, May 16	Wednesday, May 7	Monday, May 12	Monday, May 12
38 Tuesday, May 20	Monday, May 12	Wednesday, May 14	Wednesday, May 14

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
39 Friday, May 23	Wednesday, May 14	Monday, May 19	Monday, May 19
40 Tuesday, May 27	Monday, May 19	Wednesday, May 21	Wednesday, May 21
Friday, May 30	<i>No Issue Published</i>		
41 Tuesday, June 3	*Friday, May 23	Wednesday, May 28	Wednesday, May 28
42 Friday, June 6	Wednesday, May 28	Monday, June 2	Monday, June 2
43 Tuesday, June 10	Monday, June 2	Wednesday, June 4	Wednesday, June 4
44 Friday, June 13	Wednesday, June 4	Monday, June 9	Monday, June 9
45 Tuesday, June 17	Monday, June 9	Wednesday, June 11	Wednesday, June 11
46 Friday, June 20	Wednesday, June 11	Monday, June 16	Monday, June 16
47 Tuesday, June 24	Monday, June 16	Wednesday, June 18	Wednesday, June 18
48 Friday, June 27	Wednesday, June 18	Monday, June 23	Monday, June 23
49 Tuesday, July 1	Monday, June 23	Wednesday, June 25	Wednesday, June 25
50 Friday, July 4	Wednesday, June 25	Monday, June 30	Monday, June 30
51 Tuesday, July 8	Monday, June 30	Wednesday, July 2	Wednesday, July 2
Friday, July 11	<i>Second Quarterly Index</i>		
52 Tuesday, July 15	Monday, July 7	Wednesday, July 9	Wednesday, July 9
53 Friday, July 18	Wednesday, July 9	Monday, July 14	Monday, July 14
54 Tuesday, July 22	Monday, July 14	Wednesday, July 16	Wednesday, July 16
55 Friday, July 25	Wednesday, July 16	Monday, July 21	Monday, July 21
56 Tuesday, July 29	Monday, July 21	Wednesday, July 23	Wednesday, July 23
57 Friday, August 1	Wednesday, July 23	Monday, July 28	Monday, July 28
58 Tuesday, August 5	Monday, July 28	Wednesday, July 30	Wednesday, July 30
59 Friday, August 8	Wednesday, July 30	Monday, August 4	Monday, August 4
60 Tuesday, August 12	Monday, August 4	Wednesday, August 6	Wednesday, August 6

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61 Friday, August 15	Wednesday, August 6	Monday, August 11	Monday, August 11
62 Tuesday, August 19	Monday, August 11	Wednesday, August 13	Wednesday, August 13
63 Friday, August 22	Wednesday, August 13	Monday, August 18	Monday, August 18
64 Tuesday, August 26	Monday, August 18	Wednesday, August 20	Wednesday, August 20
65 Friday, August 29	Wednesday, August 20	Monday, August 25	Monday, August 25
66 Tuesday, September 2	Monday, August 25	Wednesday, August 27	Wednesday, August 27
67 Friday, September 5	Wednesday, August 27	*Friday, August 29	*Friday, August 29
68 Tuesday, September 9	*Friday, August 29	Wednesday, September 3	Wednesday, September 3
69 Friday, September 12	Wednesday, September 3	Monday, September 8	Monday, September 8
70 Tuesday, September 16	Monday, September 8	Wednesday, September 10	Wednesday, September 10
71 Friday, September 19	Wednesday, September 10	Monday, September 15	Monday, September 15
72 Tuesday, September 23	Monday, September 15	Wednesday, September 17	Wednesday, September 17
73 Friday, September 26	Wednesday, September 17	Monday, September 22	Monday, September 22
74 Tuesday, September 30	Monday, September 22	Wednesday, September 24	Wednesday, September 24
75 Friday, October 3	Wednesday, September 24	Monday, September 29	Monday, September 29
Tuesday, October 7	<i>Third Quarterly Index</i>		
76 Friday, October 10	Wednesday, October 1	Monday, October 6	Monday, October 6
77 Tuesday, October 14	Monday, October 6	Wednesday, October 8	Wednesday, October 8
78 Friday, October 17	Wednesday, October 8	Monday, October 13	Monday, October 13
79 Tuesday, October 21	Monday, October 13	Wednesday, October 15	Wednesday, October 15
80 Friday, October 24	Wednesday, October 15	Monday, October 20	Monday, October 20
81 Tuesday, October 28	Monday, October 20	Wednesday, October 22	Wednesday, October 22
82 Friday, October 31	Wednesday, October 22	Monday, October 27	Monday, October 27
83 Tuesday, November 4	Monday, October 27	Wednesday, October 29	Wednesday, October 29

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
84 Friday, November 7	Wednesday, October 29	Monday, November 3	Monday, November 3
85 Tuesday, November 11	Monday, November 3	Wednesday, November 5	Wednesday, November 5
Friday, November 14	<i>No Issue Published</i>		
86 Tuesday, November 18	Monday, November 10	Wednesday, November 12	Wednesday, November 12
87 Friday, November 21	Wednesday, November 12	Monday, November 17	Monday, November 17
88 Tuesday, November 25	Monday, November 17	Wednesday, November 19	Wednesday, November 19
89 Friday, November 28	Wednesday, November 19	Monday, November 24	Monday, November 24
Tuesday, December 2	<i>No Issue Published</i>		
90 Friday, December 5	Wednesday, November 26	Monday, December 1	Monday, December 1
91 Tuesday, December 9	Monday, December 1	Wednesday, December 3	Wednesday, December 3
92 Friday, December 12	Wednesday, December 3	Monday, December 8	Monday, December 8
93 Tuesday, December 16	Monday, December 8	Wednesday, December 10	Wednesday, December 10
94 Friday, December 19	Wednesday, December 10	Monday, December 15	Monday, December 15
95 Tuesday, December 23	Monday, December 15	Wednesday, December 17	Wednesday, December 17
96 Friday, December 26	Wednesday, December 17	Monday, December 22	Monday, December 22
Tuesday, December 30	<i>No Issue Published</i>		

Texas Register

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