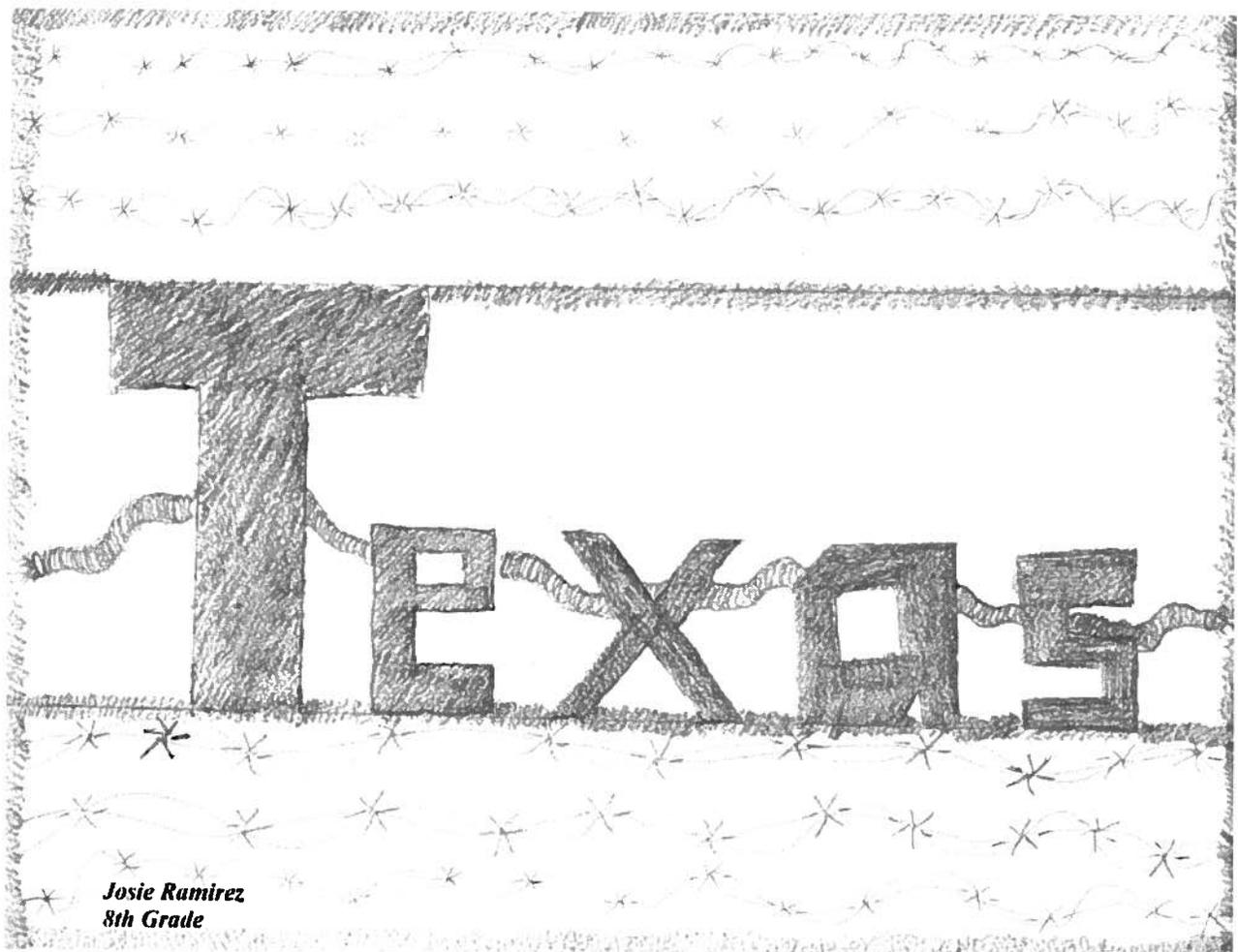

TEXAS REGISTER

Volume 39 Number 27

July 4, 2014

Pages 5001 – 5254



2015 Publication Schedule Included

IN THIS ISSUE

ATTORNEY GENERAL

Requests for Opinions.....5007

PROPOSED RULES

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

MEDICAID HEALTH SERVICES

1 TAC §354.1445, §354.1446.....5009

TEXAS DEPARTMENT OF BANKING

CORPORATE ACTIVITIES

7 TAC §15.4.....5014

TRUST COMPANY CORPORATE ACTIVITIES

7 TAC §21.4.....5014

MONEY SERVICES BUSINESSES

7 TAC §33.13.....5015

7 TAC §33.27.....5016

CREDIT UNION DEPARTMENT

CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

7 TAC §91.209.....5018

7 TAC §91.704.....5019

JOINT FINANCIAL REGULATORY AGENCIES

HOME EQUITY LENDING

7 TAC §§153.1, 153.5, 153.15, 153.51.....5021

RAILROAD COMMISSION OF TEXAS

PIPELINE SAFETY REGULATIONS

16 TAC §8.1.....5026

16 TAC §8.215.....5026

TEXAS LOTTERY COMMISSION

ADMINISTRATION OF STATE LOTTERY ACT

16 TAC §401.158, §401.160.....5027

16 TAC §401.323.....5029

TEXAS STATE BOARD OF DENTAL EXAMINERS

PROFESSIONAL CONDUCT

22 TAC §108.15.....5034

TEXAS FUNERAL SERVICE COMMISSION

LICENSING AND ENFORCEMENT--PRACTICE AND PROCEDURE

22 TAC §201.5.....5035

LICENSING AND ENFORCEMENT--SPECIFIC SUBSTANTIVE RULES

22 TAC §203.26, §203.27.....5036

TEXAS STATE BOARD OF PLUMBING EXAMINERS

EXAMINATION AND REGISTRATION

22 TAC §363.1.....5037

TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

SOCIAL WORKER LICENSURE

22 TAC §781.419.....5040

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

22 TAC §850.10.....5043

22 TAC §§850.60 - 850.63, 850.65.....5044

22 TAC §850.80.....5045

22 TAC §850.82.....5045

22 TAC §§850.100 - 850.105.....5046

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES

22 TAC §851.10.....5051

22 TAC §§851.20, 851.21, 851.23 - 851.25, 851.27 - 851.32, 851.40, 851.41, 851.43, 851.44, 851.80.....5053

22 TAC §§851.42, 851.45, 851.46.....5065

22 TAC §§851.101 - 851.112.....5065

22 TAC §851.113, §851.114.....5070

22 TAC §§851.151 - 851.153, 851.156 - 851.158.....5070

22 TAC §851.201, §851.202.....5075

22 TAC §§851.203 - 851.243.....5076

TEXAS DEPARTMENT OF INSURANCE

LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

28 TAC §§3.501 - 3.520.....5077

28 TAC §3.3602.....5078

PROPERTY AND CASUALTY INSURANCE

28 TAC §5.4200, §5.4202.....5079

HEALTH MAINTENANCE ORGANIZATIONS

28 TAC §§11.506, 11.508, 11.511.....5081

TRADE PRACTICES

28 TAC §21.5301, §21.5302.....5088

28 TAC §§21.5310 - 21.5314.....5089

28 TAC §§21.5320 - 21.5322.....5092

system as required by the applicable codes and standards recognized by the state.

(i) Water Supply Protection Specialist Endorsement. Each applicant must:

(1) hold a current Journeyman or Master Plumber License; and

(2) complete a Board approved training program based on the Federal Safe Drinking Water Act and the Federal Clean Water Act, on-site wastewater and site evaluations and graywater re-use, water quality training and water treatment, water utilities systems and regulations, water conservation, rainwater harvesting systems, xeriscape irrigation, fire protection systems, backflow prevention, and state laws regulating lead contamination in drinking water.

(j) Residential Utilities Installer. Each Applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;

(2) be registered as a Plumber's Apprentice;

(3) have completed at least 2,000 hours working at the trade as a Registered Plumber's Apprentice under the direct supervision of a Tradesman Plumber-Limited, Journeyman Plumber, or Master Plumber, and the supervision of a Responsible Master Plumber, as verified by employers; and

(4) complete a Board approved training program.

(k) Drain Cleaner. Each Applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;

(2) be registered as a Plumber's Apprentice;

(3) have completed at least 4,000 hours working at the trade as a Drain Cleaner-Restricted Registrant under the supervision of a Responsible Master Plumber, as verified by employers; and

(4) complete a Board approved training program.

(l) Drain Cleaner-Restricted Registrant. Each Applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;

(2) be registered as a Plumber's Apprentice, working under the direct supervision of a Tradesman Plumber-Limited, Journeyman Plumber, or Master Plumber, and under the supervision of a Responsible Master Plumber;

(3) complete a Board approved training program.

(m) Plumber's Apprentice. Each applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas; and

(2) be at least sixteen (16) years of age.

(n) The Board shall, with respect to a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the Board.

(1) In lieu of the standard method(s) of demonstrating competency for a particular license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

(A) education;

(B) continuing education;

(C) examinations (written and/or practical);

(D) letters of good standing;

(E) letters of recommendation; or

(F) work experience.

(2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3) This subsection does not apply to individuals who have an unacceptable criminal history according to the rules and guidelines implemented by the Board.

(4) The Board shall expedite the issuance of a provisional license or license by endorsement or reciprocity under this chapter to an applicant who:

(A) has verified military experience; and

(B) who holds a current license issued by another jurisdiction that has license requirements that are substantially equivalent to the license requirements of the Board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 20, 2014.

TRD-201402854

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: August 3, 2014

For further information, please call: (512) 936-5224



PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER D. LICENSES AND LICENSING PROCESS

22 TAC §781.419

The Texas State Board of Social Worker Examiners (board) proposes an amendment to §781.419, concerning the licensure and regulation of social workers.

BACKGROUND AND PURPOSE

The amendments to §781.419 implement Senate Bill 162 of the 83rd Legislature, Regular Session, 2013, which amended the Texas Occupations Code, Chapter 55, requiring the board, by rule, to set licensure requirement procedures for military spouses and the eligibility requirements for certain licenses issued to applicants with military experience. Specific amended sections in this proposal update licensure requirements and standards of practice in the regulation of social workers, and revisions are outlined in the section-by-section summary of this preamble.

SECTION-BY-SECTION SUMMARY

This summary considers only those sections which were substantially changed in language, meaning, or intent.

The amendment to §781.419 adds new language to define military service member, military spouse, and military veteran as well as application and eligibility procedures that apply to those individuals.

FISCAL NOTE

Sarah Faszholz, Executive Director, has determined that for each of the first five years the proposed section will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Faszholz has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with this section as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with this section, and the proposed amendment affects individual licensees and applicants but does not impose any new requirements on businesses.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the amendment as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Ms. Faszholz has also determined that for each year of the first five years this section is in effect, the public will benefit from adoption of this section. The public benefit anticipated as a result of enforcing or administering this section is to continue to ensure public health and safety through the effective licensing and regulation of social workers and to increase the availability of licensed social workers by facilitating the licensing of applicants with applicable military experience and of qualified military spouses.

REGULATORY ANALYSIS

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposal may be submitted to Sarah Faszholz, Executive Director, Texas State Board of Social Worker Examiners, Professional Licensing and Certification Unit, Division for Regulatory Services, Department of State Health Services, Mail

Code 1982, P.O. Box 149347, Austin, Texas 78714-9347 or by email to isw@dshs.state.tx.us. When submitting comments by email, please include "Comments on Proposed Rules" in the subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendment is proposed under Texas Occupations Code, §505.201, which authorizes the board to adopt rules necessary for the performance of its duties.

The amendment affects Texas Occupations Code, Chapter 505.

§781.419. Licensing of Military Service Members, Military Veterans, and Military Spouses [Spouse].

(a) This section sets out licensing procedures for military service members, military veterans, and military spouses required under Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). For purposes of this section: [the alternative license procedure for military spouse required under Texas Occupations Code, Chapter 55 (relating to License While on Military Duty and for Military Spouse)-]

(1) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(3) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) An applicant shall provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) Upon request, an applicant shall provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act and this chapter.

(f) An applicant who is a military spouse who holds a current license issued by another jurisdiction that has substantially equivalent licensing requirements shall complete and submit an application form and fee. The board shall issue a license to a qualified applicant who holds such a license as soon as practicable and the renewal of the license shall be in accordance with subsection (i) of this section.

(g) In accordance with Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(i) If the board issues an initial license to an applicant who is a military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first application for licensure renewal.

~~{(b) The spouse of a person serving on active duty as a member of the armed forces of the United States who holds a current license issued by another state that has substantially equivalent licensing requirements shall complete and submit an application form and fee. In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.}~~

~~{(c) The spouse of a person serving on active duty as a member of the armed forces of the United States who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order. Board approval of a new application, including submission of all required fees and attachments, is required prior to issuance of a license.}~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 23, 2014.

TRD-201402918

Tim Brown

Chair

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: August 3, 2014

For further information, please call: (512) 776-6972



PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 850. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

The Texas Board of Professional Geoscientists (TBPG or Appointed Board) proposes amendments to 22 TAC §§850.10, 850.60 - 850.65, 850.82, and 850.100 - 850.105, concerning the licensure and regulation of Professional Geoscientists. The Appointed Board also proposes the repeal of §850.80.

BACKGROUND AND PURPOSE

The Appointed Board of the Texas Board of Professional Geoscientists proposes amendments to clarify common definitions and terms for consistency throughout the rules; to clarify language and remove unnecessary or redundant language; and to make minor clarifications to the way that advisory opinion requests are handled by the Appointed Board.

SECTION BY SECTION SUMMARY

The Appointed Board proposes amendments to §§851.10, 850.60 - 850.63, and 850.65. Amendments to §850.10 are proposed to improve language, clarify definitions and to make other minor administrative changes for consistency for "Advisory Opinion", "Appointed Board", "Contested case or proceeding", "Executive Director", "License", "Licensee" and "Rule" (proposed to be "Rule or Board Rule"); add new definitions for "Board staff" and "TBPG"; remove unnecessary definitions of "Party", "Person" and "Final decision maker"; and renumber the paragraphs accordingly.

The Appointed Board proposes amendments to §§850.60 - 850.63 to improve language, clarify wording, make minor administrative changes for consistency, and renumber the provisions accordingly. Amendments to §850.60 are proposed to change the title of the section to "Responsibilities of the Appointed Board - General Provisions." In addition, the proposed amendment to §850.60 removes the sentence in current subsection (b) which states, "The Board governs the Texas Board of Professional Geoscientists, which is the state agency responsible for oversight of the public practice of geoscience." Amendments to §850.61 are also proposed to change the title of the section to "Responsibilities of the Appointed Board - Meetings." Amendments to §850.62 are proposed to change the title of the section to "General Powers and Duties of the TBPG." Amendments to §850.62 are also proposed to delete part of subsection (a) regarding the requirement of licensure to use of the term "licensed Professional Geoscientist" or the initials "P.G." that represent to the public that the person is qualified to practice as a geoscientist, or to engage in the public practice of geoscience because the requirement of licensure is also proposed to be included in §851.151 of the Board's rules. Proposed §850.62 also removes a sentence from current subsection (e) stating that "An individual meeting certain criteria who expresses an intent to become a licensed Professional Geoscientist may register with the Board as a Geoscientist-in-Training (GIT)" because the GIT certification requirements are included in §851.41 of the Board's rules. This subsection is unnecessary in the section referring to the General Powers and Duties of the Board.

Amendments to §850.63 are proposed to change the title of the section to "Responsibilities of the Appointed Board." Amendments to §850.63 are proposed to improve language and make minor administrative changes for consistency; remove subsection (h), eliminating the requirement of license holders to notify consumers and service recipients of the name, mailing address, and telephone numbers of the Board; and remove subsection (i) which states that the Board by rule may provide for prorating fees for the issuance of a license, registration, certificate, permit or title, so that a person regulated by the Board pays only that