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THE NEW JERSEY REGISTER

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Paul J. Sherwin, Secretary of State
Albert E. Bonacci, Director of Administrative Procedure
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THURSDAY, NOVEMBER 5, 1970

NOTICE OF RULE-MAKING ACTIVITIES OF STATE AGENCIES

The following digests, notices, and texts of rules, regulations and codes filed by Administrative Agencies during the preceding month have been prepared by the Office of the Director of the Division of Administrative Procedure, Department of State, pursuant to Section 4 (a) (1) and Section 7 (b) of Chapter 410 of the Laws of 1968.

(a)

AGRICULTURE

DIVISION OF MARKETS

Rules Concerning Grade Certificates for Eggs

On October 1, 1970, Phillip Alampi, Secretary of Agriculture, pursuant to authority of N.J.S.A. 4:10-6, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted a revision of N.J.A.C. 2:31-4 "Certificates of Grade" as proposed in the Notice published September 10, 1970 at 2 N.J.R. 69(c).

An order adopting the above revised rule was filed and effective October 1, 1970 as R.1970 d.119.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(b)

EDUCATION

STATE BOARD OF EDUCATION

Proposed Rule Concerning Advising Applicants for Certificates

Carl L. Marburger, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:6-38, proposes to adopt as N.J.A.C. 8:11-28, a rule relating to advisement of applicants for certificates, as follows:

8:11-28 ADVISEMENT OF APPLICANTS FOR CERTIFICATES

Persons who wish to qualify for teacher certification shall be advised by officials of the college or university at which they plan to complete an approved teacher education program. The State Department of Education will examine college transcripts and issue an evaluation specifying the additional study needed to qualify for a certificate only:

1. To applicants who have completed a state-approved teacher education program in another state, who wish to know if they are eligible for a regular New Jersey Certificate.

2. To applicants who have had at least one year of successful experience under an appropriate certificate in another state, who wish to know if they are eligible for a regular New Jersey Certificate.

3. Upon request from a superintendent of schools, to persons who are being offered employment in a public school in New Jersey. Requests from superintendents should be accompanied by a complete application including OTEC-1, OTEC-2 (oath), OTEC-5, fee, OTEC-800 or OTEC-801, and official college transcripts.

Such requests should be made only if:

a. The applicant appears to the superintendent to have met the requirements stated in the Rules (Appendix B) for at least an emergency or a provisional certificate, or
b. The superintendent is requesting issuance of an emergency or provisional certificate on the basis of individual review, and is submitting form OTEC-802 with application.

In all other cases persons who inquire regarding eligibility for teaching shall be advised to complete a state-approved teacher education program in an accredited college. School districts and county superintendents shall maintain information and literature regarding the approved programs available on a pre-service and in-service basis in New Jersey colleges to full-time and part-time students.

Interested persons may present statements or arguments in writing, orally in person or by telephone, relevant to the proposed action before 4 p.m. on December 1, 1970 to:

Clyde E. Leib
Office of the Commissioner
New Jersey State Department of Education
225 West State Street
Trenton, New Jersey 08625
Telephone: (609) 292-4040

The State Board of Education, upon its own motion or at the instance of any interested party, may thereafter adopt the above rule substantially as above set forth without further notice.

Carl L. Marburger
Commissioner of Education
Secretary, State Board of Education

(c)

EDUCATION

STATE BOARD OF EDUCATION

Proposed Amendments to Rules Governing Tuition Rates

The State Board of Education, pursuant to authority of N.J.S.A. 18A:4-15 and 4-16, proposes to amend N.J.A.C. 8:20-15, 18, 19 and 20 relating to tuition in public schools as follows (additions indicated in bold face thus; deletions indicated within brackets [thus]):

8:20-15 Method of Determining [High School] Tuition Rates

(a) The term "actual cost per pupil" for determining the [high school] tuition rate or rates for a given year referred to in [R.S. 18:14-71] N.J.S.A. 18A:38-19 shall mean the cost per pupil in average daily enrollment, based upon total operating expenditures for that year for [all high school] the purpose or purposes for which the tuition rate is being determined (i.e., 4 yr. h.s., sr. h.s., jr. h.s., elem., educable, etc.) except maintenance and debt service, in lieu of which a rental charge of five percent of the total original cost of the [high school] plant or plants used for the purpose or purposes for which the tuition rate is being determined, including land and equipment, and subsequent additions thereto shall be made. In any year in which the receiving district can prove to the satisfaction of the Commissioner that the five percent rental will not be adequate because of high interest rates or other just cause the Commissioner may approve a higher rental allowance.

(1) All expenditures [for high school purposes] shall be included, regardless of the sources of revenue.

(2) "Average daily enrollment" for the purpose of determining the "actual cost per pupil," shall be the sum of the days present and absent of all pupils enrolled in the [high] school register or registers of the program or programs for which the rate is being determined during the year divided by the number of days school was actually in session.

(b) Whenever practicable, the actual amounts expended for [high school purposes for] each applicable item in the

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program or programs for which the tuition rate is required, according to the prescribed bookkeeping and accounting system, shall be recorded and used in determining the "actual cost per pupil."

(c) Whenever it shall be impracticable to charge the actual amount expended for [high school purposes for] a particular item [.] in the program or programs for which the tuition rate is being determined then the [high school] share of such expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

(1) Administration—Ratio of numbers of [high school] teachers in each such program to the total number of teachers of the system.

(2) Instruction

(a) [Supervisors,] Principals' Salaries [and Teachers]—Ratio of [time devoted to high school duties to time devoted to all duties] the number of pupils in average daily enrollment in each program.

(b) Supervisors, Teachers—Other Instructional Staff and Other Salaries of Instruction—Ratio of time devoted to each program.

(c) Secretarial and Clerical Assistants and Other Salaries—Ratio of the number of pupils in average daily enrollment in each program.

[(b)] (d) Textbooks, School Library and Audio Visual Materials and Teaching Supplies—Weighted ratio of average daily enrollment of [high school] pupils in each program to average daily enrollment of all pupils in the system; in weighing, four tenths shall be allowed for elementary and six-tenths for high school grades.

[(c)] (e) Other Expenses—Ratio of the average daily enrollment of [high school] pupils in each program to average daily enrollment of all pupils of the system.

(3) Operation

(a) Janitors', Engineers' and Firemen's salaries—Ratio of square feet of floor space of building used for high school purposes to square feet of floor space used for all schools. Such floor space shall not include offices, boiler rooms, corridors or other rooms not used by pupils. Whenever a room shall be used by both a high school and other pupils, such square footage shall be determined by the relative time use of such room by the high school and other school pupils.

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Tuition Rate Amendments—continued

(b) Janitorial Supplies—Fuel, Light, Power and Water—Ratio of square footage as set forth in (3) (a) above. Whenever costs are not kept separately for a building which is a combination school, such costs shall be prorated according to the ratio of square footage used for high school to the total square footage of the building.]

Attendance and Health Services—Ratio of the number of pupils in average daily enrollment in each program. Attendance Officer Salary and Expenses shall be excluded.

(4) [Other School Services

(a) Coordinate Activities—Ratio of the average daily enrollment of high school pupils to average daily enrollment of all pupils of the school system.

(b) Auxiliary Agencies—Ratio of average daily enrollment of high school pupils to average enrollment of all pupils of the school system.]

Transportation Expenditures shall be excluded.

(5) [Fixed Charges—Ratio of average daily enrollment of high school pupils to average daily enrollment of all pupils of the school system. Tuition shall be excluded.

(a) Rental—Ratio of square footage used for high school purposes to the total square footage of the building.]

Operation—Salaries and all other costs—Ratio of square feet of floor space used by each program. Such floor space shall not include: offices, boiler rooms, corridors or other rooms not used by pupils. Whenever a room shall be used for two or more programs such square footage shall be prorated as to time devoted to each program.

(6) Maintenance shall be excluded.

(7) Fixed Charges—Ratio of average daily enrollment in each program.

(8) Tuition shall be excluded.

(9) Food Service Salaries and Expenses—Ratio of average daily enrollment in each program.

(10) Student Body Activities Salaries and Expenses—Ratio of average daily enrollment in each program.

(11) Community Services shall be excluded.

(d) A tentative tuition rate may be set by agreement between the receiving district and the sending district, and such tentative rate shall be based upon the estimated cost per pupil for the ensuing school year, as to be reflected in the proposed budget of the receiving district.

(1) If the sending district and the receiving district reach an agreement before January first, they shall so notify the Commissioner.

(2) If the sending district and the receiving district cannot reach an agreement on the estimated cost per pupil by January first, then the tentative tuition rate shall be based upon the actual cost per pupil for the completed school year immediately preceding.

(3) If the Commissioner later determines that the tentative tuition rate was greater than the actual cost per pupil during the school year for which the tentative rate was charged, the receiving district shall return to the sending district the amount by which the tentative rate exceeded the actual cost per pupil, or, at the option of the receiving district, shall credit the sending district with the amount by which the tentative tuition rate exceeded the actual cost per pupil.

(4) If the Commissioner later determines that the tentative rate was less than the actual cost per pupil during the school year for which the tentative rate was charged, the receiving district may charge the sending district all or part of the amount by which the actual cost per pupil exceeded the tentative rate, to be paid not later than during the second school year following the school year for which the tentative rate was paid.

(e) The Commissioner shall prepare the detailed directions and the necessary forms to be used by school officials in determining the "actual cost per pupil" for tuition purposes according to these rules.

8:20-16 [Method of Determining Junior High School Tuition Rates

The cost per pupil for tuition purposes in Junior High Schools shall be determined in the same manner as in high schools.]

8:20-18 [Method of Determining Tuition Rates for Educable Mentally Retarded Children

(a) The term "actual cost per pupil" for determining the tuition rate of educable mentally retarded children for a given year, referred to in R.S. 18:14-71.7 as mentally retarded children, shall mean the cost per pupil in average daily enrollment based on the total operating expenditures for the year for which tuition is charged for all pupils so classified exclusive of maintenance and debt service, in lieu of which a rental charge of five percent of the total original cost of the plant including land and equipment and subsequent additions thereto shall be made.

(1) All expenditures for educable mentally retarded

children shall be included regardless of the sources of revenue.

(2) "Average daily enrollment" for the purpose of determining the "actual cost per pupil" shall be the sum of the days present and absent of all pupils enrolled in the school register for educable mentally retarded classes during the year divided by the number of days school was actually in session.

(b) Whenever practicable, the actual amounts expended for educable class purposes for each item, according to the prescribed bookkeeping and accounting system, shall be recorded and used in determining the "actual cost per pupil."

(c) Whenever it shall be impracticable to charge the actual amount expended for educable class purposes for a particular item, the share to be charged to educable classes shall be determined on a pro rata basis in accordance with the following ratios:

(1) Administration—Ratio of the number of teachers in educable classes to the total number of teachers of the system.

(2) Instruction

(a) Teachers, Supervisors and Principals—Ratio of time devoted to educable classes to time devoted to all duties.

(b) Textbooks and Supplies—Ratio of average daily enrollment of educable mentally retarded pupils to average daily enrollment of all pupils in the system.

(c) Other Expenses—Ratio of the average daily enrollment of educable mentally retarded pupils to the average daily enrollment of all pupils of the system.

(3) Operation

(a) Janitors', Engineers' and Firemens' Salaries Ratio of square feet of floor space of areas used for educable mentally retarded classes to square feet of floor space used for all schools. Such floor space shall not include offices, boiler rooms, corridors or other rooms not used by pupils. Whenever a room shall be used by both educable and other pupils, such square footage shall be determined by the relative time use of such room by the educables and other school pupils.

(b) Janitorial Supplies—Fuel, Light, Power and Water—Ratio of square footage as set forth in (3) (a) above. Whenever costs are not kept separately for a building which is a combination school, such costs shall be prorated according to the ratio of square footage used for educables to the total square footage of the building.

(4) Other School Services

(a) Coordinate Activities—Ratio of average daily enrollment of educable pupils to average daily enrollment of all pupils in the school system.

(b) Auxiliary Agencies—Ratio of average daily enrollment of educable pupils to average daily enrollment of all pupils in the school system.

(5) Fixed Charges—Ratio of average daily enrollment of educable pupils to average daily enrollment of all pupils of the school system. Tuition shall be excluded.

(a) Rental—Ratio of square footage used for educable classes to the total square footage of the building.

(d) The Commissioner shall prepare the detailed directions and the necessary forms to be used by school officials in determining the actual cost per pupil for tuition purposes according to these rules.]

8:20-19 [Method of Determining Tuition Rates for Trainable Mentally Retarded Children

The cost per pupil for tuition purposes in trainable mentally retarded classes shall be determined in the same manner as in educable mentally retarded classes.]

8:20-20 [Method of Determining Tuition Rates for Physically Handicapped Children, Pursuant to R.S. 18:14-71.25

The cost per pupil for tuition purposes in each category listed in R.S. 18:14-71.18 shall be determined in the same manner as in educable mentally retarded classes.]

Interested persons may present statements or arguments in writing, orally in person or by telephone, relevant to the proposed action before 4 p.m., December 1, 1970, to:

Clyde E. Leib
Office of the Commissioner
Department of Education
225 West State Street
Trenton, New Jersey 08625
Telephone: (609) 292-4040

The State Board of Education, upon its own motion or at the instance of any interested party, may thereafter adopt the proposed amendments substantially as set forth without further notice.

Victor J. Podesta
Acting Commissioner of Education
Acting Secretary, State Board of Education

(a)

EDUCATION

STATE BOARD OF EDUCATION

Regulation Governing Library Incentive Grants

On October 16, 1970, Carl L. Marburger, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:74-10, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted regulations governing the receipt of incentive grants under the provisions of N.J.S.A. 18A:74-6, as proposed in the Notice published September 10, 1970 at 2 N.J.R. 71(b).

An order adopting the above regulations was filed and effective October 21, 1970 as R.1970 d.127.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(b)

INSTITUTIONS AND AGENCIES

DIVISION OF COMMUNITY AND PROFESSIONAL SERVICES

BUREAU OF COMMUNITY INSTITUTIONS

Proposed General Guidelines for Long-Term Care Units in Hospitals

The State Board of Control of the Department of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:11-1 et seq., proposed at its meeting on September 23, 1970 to adopt general guidelines for long-term care units in hospital facilities.

The proposed guidelines, which shall be applicable to all existing and new facilities licensed or approved as a hospital under the provisions of N.J.S.A. 30:11-1 et seq., read as follows:

Every long-term care unit in a hospital facility licensed under the provisions of N.J.S.A. 30:11-1 et seq., whether a free standing structure or a distinct part of a structure, shall follow these general guidelines to distinguish between the acute care and long-term care units in hospital facilities:

1. Long-term care patients may be admitted directly to either the acute care or long-term care units of the hospital, but under no circumstances are acute or intensive care patients to be admitted or maintained in the long-term care unit.

2. Patients are to be transferred from the acute care section to the long-term care unit at any time deemed feasible by the attending physician, with the criteria being the type of care needed by the patient. Patients who require less than 30 days care may be transferred and the average length of stay in a long-term care unit need not be 30 days.

3. Patients who require acute or intensive care are not to be transferred to the long-term care unit.

4. Patients who require sub-acute, progressive, convalescent, nursing, self, rehabilitation or long-term care may occupy the long-term care unit.

5. The hospital must maintain separate statistical reporting data so that no patient days in the acute or intensive care units will be identified as patient days in the long-term care unit.

6. For purposes of the State Plan, long-term care beds funded under the Hill-Burton program will continue to be carried as long-term care beds.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before November 30, 1970, to:

Office of the Commissioner
Department of Institutions and Agencies
135 West Hanover Street
Trenton, New Jersey 08625

The State Board of Control, upon its own motion or at the instance of any interested party, may thereafter adopt the proposed guidelines substantially as set forth without further notice.

Lloyd B. Westcott
President
State Board of Control
Department of Institutions and Agencies

(c)

INSTITUTIONS AND AGENCIES

DIVISION OF COMMUNITY AND PROFESSIONAL SERVICES

BUREAU OF COMMUNITY INSTITUTIONS

Proposed Supervision Regulations For Nursing Home Administrators

The State Board of Control of the Department of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:11-1 et seq., proposed at its meeting on September 23, 1970 to adopt supervision regulations for nursing home administrators.

The proposed regulations, which shall be applicable to all existing and new facilities licensed or approved as nursing or convalescent facilities under the provisions of N.J.S.A. 30:11-1 et seq., read as follows:

Every long-term care facility licensed under the provisions of N.J.S.A. 30:11-1 et seq., whether a free standing structure or a distinct part of a structure, shall be operated under the supervision of an Administrator licensed pursuant to N.J.S.A. 30:11-11 et seq. (Chapter 356, P.L. 1968) and in keeping with the following provisions:

1. The facility shall have a licensed administrator who shall be either the proprietor or employed by the facility

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the administrative and supervisory functions at the facility to assure that it is operated and maintained at all times in full conformity with Departmental standards for licensure.

2. An individual, competent and authorized to act in the absence of the licensed administrator, shall be designated at all times.

3. The Department shall be notified in writing within 48 hours of any change in licensed administrators.

4. If the service of a licensed administrator is terminated, a new licensed administrator shall be designated. In instances where a new licensed administrator is not immediately available, the Department shall be so notified in writing and the facility shall make arrangements for licensed administrative supervision on a consultant basis. Unless extenuating circumstances exist, it is anticipated that a new licensed administrator shall be appointed within 30 days.

5. In a facility where a licensed administrator has both administrative and other functions, such as nursing responsibilities, the facility shall maintain time schedules which delineate clearly the specific hours spent by the individual in each function.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before November 30, 1970 to:

Office of the Commissioner
Department of Institutions and Agencies
135 West Hanover Street
Trenton, New Jersey 08625

The State Board of Control, upon its own motion or at the instance of any interested party, may thereafter adopt the proposed regulations substantially as set forth without further notice.

Lloyd B. Westcott
President
State Board of Control
Department of Institutions and Agencies

(a)

INSTITUTIONS AND AGENCIES

DIVISION OF COMMUNITY AND PROFESSIONAL SERVICES

BUREAU OF COMMUNITY INSTITUTIONS

Proposed Revision of Manual of Standards for Hospital Facilities

The State Board of Control of the Department of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:11-1 et seq., proposed at its meeting on October 28, 1970 to adopt a revised Manual of Standards for Hospital Facilities.

The proposed Manual of Standards shall be applicable to all existing and new facilities licensed or approved as a hospital under the provisions of N.J.S.A. 30:11-1 et seq. The introduction to the proposed manual reads as follows:

The New Jersey State legislature has delegated to the Department of Institutions and Agencies the responsibility for the establishment and enforcement of standards for the operation and licensure of hospital facilities in New Jersey.

The Manual of Standards for Private Hospitals sets forth the minimum requirements for licensure purposes. As the primary objective of a hospital facility, all hospitals shall be expected to exceed these minimum standards wherever the situation requires to assure the provision of an adequate and safe pattern of patient care.

In instances where full compliance with particular sections contained herein shall be found not applicable, appropriate waivers shall be granted provided that such waivers shall in no way jeopardize the health, safety and welfare of patients admitted or cared for within the facility.

Hospital patient care is essentially an entity composed of the activities of the patient's physician and hospital personnel consciously directed to the meeting of specific needs of the patient for diagnosis, treatment, rehabilitation, prevention of disease and personal care for the purpose of curing or alleviating the effects of disease, injuries, or disorders of health; promoting a positive state of health; and restoring the patient to effective living in accordance with his disabilities, as well as with his abilities and capacities.

A high level of patient care, therefore, requires unity of purpose and effort on the part of the governing board, the administrator, the medical and nursing staffs and all other hospital personnel who contribute to the essential care of the patient during his hospital stay. Segmented patient care may be avoided by clearly delineating the role of each discipline and establishing the necessary cooperative relationships.

Section One, "Definitions, Classification and Licensing Policies," of the proposed manual reads as follows:

101 HOSPITALIZATION

Hospitalization shall be defined as the reception and care of any person for a continuous period, longer than twenty-four hours, for the purpose of diagnosis and/or treatment bearing on the physical or mental health of such persons.

102 PRIVATE HOSPITAL

A private hospital is an institution, whether operated for profit or not, which is not maintained, supervised or controlled by an agency of the government of the State or any county or municipality and which maintains and operates facilities for the diagnosis, treatment or care of two or more non-related individuals suffering from illness, injury or deformity and where emergency, outpatient, surgical, obstetrical, convalescent or other medi-

cal and nursing care is rendered for periods exceeding twenty-four hours.

103 LICENSEE

(A) The licensee is the corporation, association, partnership or individual operating an institution and on whom rests the responsibility for maintaining acceptable standards in all areas of operation.

(B) Any agency of the government or any county or municipality which shall apply for and receive Federal funds under the provisions of Public Law 725 or the 79th Congress, Chapter 958, Second Section, shall be required to comply with the rules and regulations and the minimum standards of nursing and hospital care provided for in Section 30:11-1 of the revised statutes as a condition prior to receiving such funds.

(C) Any hospital which has received financial aid from the Federal government for construction and which, as a condition to the receipt of such funds, has agreed to provide accommodations for a special type of patient (chronic, psychiatric, etc.) shall continue to maintain such special services as a condition to license.

104 CLASSIFICATION OF INSTITUTIONS

(A) Private hospitals shall be classified generally as:

1. Non-Profit

Any hospital owned and operated by a corporation, association, religious or other organization, no part of the net earnings of which is applied, or may lawfully be applied, to the benefit of any private shareholder or individual

2. Proprietary or Profit

Any hospital owned and operated by an individual, partnership or corporation, the net proceeds of which are subject to distribution for the benefit of such individual, corporation or shareholders

(B) Hospitals shall be further classified as:

1. General Hospital

An institution which maintains and operates organized facilities and services for the diagnosis, treatment or care of persons suffering from acute illness, injury or deformity and/or obstetrics, and in which all diagnosis, treatment and care are administered by or performed under the direction of persons licensed to practice medicine or osteopathy in the State of New Jersey.

2. Special Hospital

An institution which assures provision of comprehensive specialized diagnosis, care and treatment and rehabilitation where applicable on an in-patient basis for one or more specific categories of patients.

3. Mental Hospital

An institution which provides congregate maintenance and personal care of mentally ill persons.

4. Tuberculosis Hospital

An institution which assures the provision of comprehensive specialized diagnosis, care, treatment and rehabilitation where applicable on an in-patient basis for patients of all ages who are suspects or definitely diagnosed as having tuberculosis or a related condition.

105 INSPECTION

(A) A hospital for which a license or approval has been issued shall be periodically inspected by one or more duly appointed representatives of the Department of Institutions and Agencies under the rules and regulations presented in this manual.

(B) Visits to evaluate the physical plant, equipment and overall operation of the hospital shall be made during usual working hours of the day, except in an emergency when inspection may be made at any time.

106 EXCEPTIONS AND EXEMPTIONS

(A) The word "hospital" as used herein shall not be deemed to include first aid stations for emergency medical or surgical treatment where no continuous bed care or protracted treatment is contemplated or performed.

(B) The Department of Institutions and Agencies does not have the power or authority to:

1. Require any hospital to practice or permit sterilization of human beings, euthanasia, birth control or any other similar practice contrary to the dogmatic or moral beliefs of any well established religious body or denominations.

2. Supervise or regulate or control the remedial care or treatment of individual patients who are adherents of any well recognized church or religious denomination which subscribes to the art of healing by prayer and the principles of which are opposed to medical treatment and who are resident in any home or institution operated by a member or members or by an association or corporation composed of members of such well recognized church or religious denomination.

3. Modify or repeal any laws, rules or regulations governing the control of communicable diseases.

107 LICENSE

(A) No license provided shall be granted for a term exceeding one year.

(B) No license issued shall be assignable or transferable and shall be immediately void if a hospital ceases to operate or its ownership changes.

(C) The license shall be conspicuously posted on the premises.

(D) The institution shall give written notice to the Department of Institutions and Agencies at least 30 days prior to closing or transferring ownership of the facility.

(E) Individual licenses shall not be required for separate hospital buildings located on the same or adjoining grounds if these are operated under one management.

(F) If a hospital operates a long-term care facility under the same corporate body and administration and members of the hospital's medical staff are assigned responsibility for the medical care of patients admitted in each facility, the long-term care facility shall be considered an integral part of the hospital for licensure purposes regardless of whether it is physically established as a distinct part of the hospital, as a separate structure on the hospital premises, or as a separate structure on property distant from the hospital. Only one license shall be issued to the hospital to cover both facilities with the stipulation

that the allocation of bed capacities not be changed except by approval of the Hospital Licensing Board.

108 FEES

(A) A license to operate a private hospital shall be issued upon the payment of a fee of \$25.00 providing that the application and the hospital facility are in full compliance with the applicable regulations.

(B) Licenses shall be renewed annually upon payment of a like fee.

(C) All fees received by the Department under the provisions of this Act shall be paid into the General State Fund.

109 REVOCATION OR SUSPENSION OF LICENSE

(A) The Department is authorized to suspend or revoke a license issued hereunder or to impose a money penalty on any of the following grounds:

1. Violation of any provisions of the statute or the rules and regulations issued pursuant thereto.

2. Permitting, aiding or abetting the commission of any illegal act in said institution.

3. Conducting practices contrary to accepted procedures and detrimental to the welfare of the patient.

(B) Every hospital licensed to operate under the laws of the State of New Jersey shall comply with all existing legislation with respect to abortions. Any departure from the accepted practice in this regard shall subject the hospital to revocation of its license.

110 INFORMATION NOT TO BE DISCLOSED

(A) Information received by the Department of Institutions and Agencies through inspection authorized under this Act shall be confidential.

(B) Nothing contained herein shall be construed to interfere with existing legislation or the established rights and privileges of the public prosecutor and litigants having access to hospital records, nor shall anything herein be construed to interfere in any way with the orderly legal process of obtaining access to such records.

111 PLANNING A NEW HOSPITAL — EXPANSION OF EXISTING FACILITIES

(A) Groups, organizations or individuals planning the construction and establishment of a new hospital should conduct a preliminary survey which includes the following:

1. An estimate of the need for additional hospital beds in the area in question, together with some evaluation as to the adequacy or inadequacy of existing hospitals.

2. Evaluation of the potential financial resources which would be available to the proposed hospital.

3. The reaction of the general public to the proposed hospital, including a list of names of influential persons who might be willing to serve on the governing board.

4. A canvass of the opinions of physicians in the area and the reaction of the medical, osteopathic and other interested societies.

5. An estimate as to the approximate number of beds that are needed and a rough estimate of the cost of such an institution.

(B) The proposed facility shall be in reasonable conformity with the principles, standards, priorities and overall needs of the State as expressed in the "New Jersey State Plan for the Construction of Hospitals and Related Medical Facilities."

(C) The individual or group shall arrange for a conference with the Department to discuss the proposed project in detail. If the overall program is considered feasible, schematic architectural plans should be prepared and submitted to the Department for approval.

(D) The group, organization or individual planning to operate a new hospital facility shall provide the complete information required in the application form.

(E) The likelihood of the proposed facility meeting the standards for accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association shall be given full consideration and the facilities unlikely to meet such standards would be obliged to present overpowering reasons for licensure.

(F) All premises hereafter proposed for hospital use shall be:

1. Fire resistant construction
2. Designed for hospital purposes
3. Approved by the Department as readily adaptable for such purpose

(G) Any new hospital proposing to build must present a master plan, including schematic drawings, for a 200-bed hospital and must complete 100 beds within that plan.

(H) If the new hospital will initially complete and operate fewer than 200 rated beds, the hospital must demonstrate that the other hospitals in the area are willing and able to provide the services excluded by the new hospital and that these services are adequate to meet the needs of the community served by the new facility.

(I) All hospitals shall be expected to provide care for the needy sick and no hospital shall withhold service from any person because of race, creed or national origin.

(J) The procedure for the approval of the application and the architectural plans of a new hospital facility include the following:

1. The application form must be substantially complete before it will be accepted for consideration by the Department.

2. Preliminary plans, including the written approval by the local zoning authority, must be submitted.

3. The application and preliminary plans shall be presented to the Hospital Licensing Board for review and recommendation.

4. Preliminary approval or disapproval of the hospital proposal by the Licensing Board shall be subject to confirmation by the State Board of Control.

5. Final approval shall be dependent upon the submission of an application form which is complete and acceptable in all details and satisfactory working drawings. Such final approval shall be the responsibility of the State Board of Control.

(K) Hospitals applying for Federal grants-in-aid under the provisions of the Federal Hospital Survey and Construction Act shall submit a written statement certifying

Hospital Facilities Manual—continued

that no person will be denied admission to the proposed facility, for which such funds are requested, because of race, creed or color. The certification shall indicate any restrictions of services because of race, creed or color.

(L) All new hospitals applying for license shall provide written evidence of approvals by local fire, building and health authorities.

(M) All hospitals applying for license shall provide the following professional departments, services and facilities:

1. Clinical and Pathological Laboratories
 - a. The laboratories shall be under the direction of a qualified pathologist on a full or part time basis.
 - b. A qualified member of the medical staff may be appointed by the governing authority to assume a portion of the responsibilities involved, with a qualified pathologist as a consultant.
2. Morgue and Autopsy Facilities
 - a. The space, equipment and personnel available for necropsy service shall be adequate to meet the needs of the hospital.
 - b. Refrigeration facilities for two cadavers shall be provided for the first 100 bed capacity; an additional refrigeration unit or space shall be required for each additional 100 beds of capacity.
 - c. If the necessary facilities for necropsy are not provided within the hospital, these shall be conveniently located elsewhere.
3. Blood Bank
 - a. The governing board shall designate the pathologist or other qualified physician as physician-in-charge of the blood service.
 - b. The hospital shall maintain an emergency supply of whole blood.
 - c. The hospital shall maintain a current list of potential blood donors of all principal blood types and groups who are available in emergencies or it shall establish a stable source of blood supply, either through an integrated blood operation or by arrangement with an outside blood service.
4. Heart Station
 - a. The hospital shall provide at least one room equipped for electrocardiography. Sufficient space shall be provided for the maintenance of essential records and such office space as may be required by the physician-in-charge.
 - b. It is recommended that additional space be allocated and reserved for advanced procedures in cardiology.
5. Surgical Suite
 - a. The surgical suite shall not be used as a passageway to other hospital areas.
 - b. Every provision shall be made to insure safe and aseptic surgical care, and for the protection of patients from infection and from cross infection from unclean or infectious cases.
6. Obstetrical Suite
 - a. The suite shall be located to prevent through traffic and shall be completely separated from the surgical suite.
 - b. A recovery room shall be provided in hospitals with an annual birth rate of more than 800.
7. Accident-Emergency Services
 - a. All hospitals shall provide accident and emergency services at all times and shall accept, when medically indicated, patients seeking such services without regard to their ability to pay.
 - b. The governing board shall appoint a physician who shall serve as physician-in-charge of the emergency department. He shall be responsible for the prompt and efficient treatment of emergency patients and the coordination of 24-hour licensed physician coverage according to a plan established by the medical staff and approved by the governing authority.
 - c. If the needs of a patient seeking accident or emergency services at the hospital cannot be adequately provided on a continuing basis, such patient shall not be discharged except after a medical review and under medical direction. The hospital shall be responsible for the transfer of such patient to an institution equipped to render the needed care and for completing arrangements for such care.
8. Diagnostic X-Ray Department
 - a. The governing authority shall appoint a qualified roentgenologist to direct the radiographic service of the hospital.
 - b. Adequate qualified personnel shall be available at all times to provide the required services.
9. Central Service
 - a. The hospital shall provide, prepare, sterilize and store sufficient sterile supplies and medical and surgical equipment and shall dispense these to all departments and services of the facility.
 - b. This service shall be carried on in an area designed, equipped and staffed for this purpose.
10. Post-operative Recovery Room
 - a. This unit shall be located in close proximity to the surgical suite and direct emergency communication shall be provided between the two areas.
 - b. The size shall be sufficient to provide adequate space for two recovery stretchers per operating room.
 - c. The unit shall be under the direct supervision of an anesthesiologist or a qualified physician designated by the governing board.
11. Out-Patient and Preventive Services
 - a. All hospitals shall provide, on a regular and continuing basis, out-patient and preventive clinics in those services provided on an in-patient basis.
 - b. In no instance shall a hospital provide less than out-patient services in medicine and surgery.
12. Anesthesia Department
 - a. The governing authority shall appoint a physician to direct the anesthesia service.
 - b. The administration of general anesthesia or analgesia shall be performed only by a qualified anesthesiologist or a qualified nurse anesthetist who is a member of the anesthesia department and who is under the supervision thereof.

c. A system shall be established whereby personnel qualified to administer anesthesia shall be available at all times in sufficient numbers to meet emergency needs.

(N) Any hospital applying for license shall establish and maintain the following paramedical and institutional service departments:

1. Administration
2. Nursing Service Department
3. Medical Record Department
4. Pharmacy Department
5. Dietetic Service Department
6. Housekeeping Department
7. Plant and Maintenance Department
8. Medical Library
9. Laundry Service
10. Purchasing and Central Stores

(O) Any existing hospital of fewer than 200 beds proposing to expand must present a master plan, including schematic drawings, for orderly expansion to a 200-bed hospital. If the existing hospital has less than 100 beds, it must complete a minimum of 100 beds within the plan.

(P) Full consideration should be given to possible merger of facilities and consolidation of planned or existing services with other hospitals before building new or expanding existing hospitals.

(Q) If the need is demonstrated, any satellite hospital facility may be smaller than 100 rated beds; but it must be affiliated with, and operated under, the effective supervision of the Board of Trustees of an existing 200 bed (or larger) hospital.

(R) Any new satellite hospital facility must be planned and constructed under the effective supervision of the Board of Trustees of the hospital with which it is affiliated.*

(S) If the need is demonstrated, an out-patient clinic service (including emergency services) of an existing hospital may be located in a separate building and at a distance from the hospital, but must be operated under the effective supervision of the Board of Trustees of an existing 200-bed (or larger) hospital.

Copies of the complete text of the proposed Manual may be obtained from:

Office of the Commissioner
Department of Institutions and Agencies
135 West Hanover Street
Trenton, New Jersey 08625
Telephone: (609) 292-4303

Interested persons may present statements or arguments in writing relevant to the proposed action to the Office of the Commissioner, Department of Institutions and Agencies, at the above address, on or before December 4, 1970.

The State Board of Control, upon its own motion or at the instance of any interested party, may thereafter adopt the Manual substantially as proposed without further notice.

Lloyd B. Wescott
President
State Board of Control
Department of Institutions and Agencies

(a)

INSTITUTIONS AND AGENCIES

DIVISION OF PUBLIC WELFARE

Proposed Changes in Medical Assistance For the Aged Manual of Administration

Lloyd W. McCorkle, Commissioner of Institutions and Agencies, pursuant to authority of N.J.S.A. 44:10-3 and 44:7-6 proposes to amend the Medical Assistance for the Aged Manual of Administration as follows (additions indicated in bold face thus; deletions indicated within brackets [thus]):

3321. Income Eligibility for Hospitalization and Home Health Care

1. Period for Determining Income Eligibility
a. Income eligibility shall always be determined for a period of [three] six consecutive months, beginning from the date of application or from the date when redetermination of income eligibility is required.

b. All income which will be available during the [three] six applicable months shall be considered. The sum of all such income shall be divided by [three] six to determine monthly income for purposes of applying adjusted income schedule.

c. If at the end of any [three] six month period the client continues to be in need of hospitalization or home health care, income eligibility shall be redetermined for the following [three] six months.

3322. Income Eligibility for Nursing Home Care

1. Period for Determining Income Eligibility
a. Income eligibility for nursing home care is determined [initially] or redetermined for a period of [three] six months. [unless b. below is applicable]

[b. When a client has been receiving continuous nursing home care for six consecutive months, income eligibility shall be determined or redetermined, whichever is applicable on a six months' basis.]

b. [c.] All income shall be considered available to meet authorized costs incident to nursing home care.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before November 30, 1970 to:

Division of Public Welfare
129 East Hanover Street
Trenton, New Jersey 08625

The Department of Institutions and Agencies, upon its own motion or at the instance of any interested party, may thereafter adopt the proposed amendments substantially as set forth without further notice.

Lloyd W. McCorkle
Commissioner
Department of Institutions and Agencies

(b)

INSTITUTIONS AND AGENCIES

DIVISION OF COMMUNITY AND PROFESSIONAL SERVICES

BUREAU OF COMMUNITY INSTITUTIONS

Criteria for Satellite Hospitals

On September 23, 1970, the State Board of Control of the Department of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:11-1 et seq., and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted criteria for satellite hospital facilities, to supplement the standards on minimum bed requirements for hospitals contained in the Manual of Standards for private hospitals (dated July, 1968), as proposed in the Notice published August 6, 1970 at 2 N.J.R. 64(b).

An order adopting the above rules was filed and effective September 23, 1970 as R.1970 d. 116.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(c)

INSTITUTIONS AND AGENCIES

DIVISION OF PUBLIC WELFARE

Categorical Assistance Budget Manual

On October 6, 1970, Lloyd W. McCorkle, Commissioner of Institutions and Agencies, pursuant to authority of N.J.S.A. 44:10-3 and 44:7-6, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted amendments to the Categorical Assistance Budget Manual, as proposed in the Notice published September 10, 1970 at 2 N.J.R. 74(a).

An order adopting the above amendments was filed and effective October 13, 1970 as R.1970 d.124.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(d)

INSTITUTIONS AND AGENCIES

DIVISION OF PUBLIC WELFARE

Manual of Administration

On October 6, 1970, Lloyd W. McCorkle, Commissioner of Institutions and Agencies, pursuant to authority of N.J.S.A. 44:10-3 and 44:7-6, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted amendments to Sections 2111. "Inquiries and Referrals," 2112. "Application Policy and Procedure," and 2227. "County Responsibility and Procedures in Respect to Persons Released from Certain Institutions" of the Division of Public Welfare Manual of Administration, as proposed in the Notice published September 10, 1970 at 2 N.J.R. 73(d).

An order adopting the above amendments was filed and effective October 13, 1970 as R.1970 d.125.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(e)

INSTITUTIONS AND AGENCIES

DIVISION OF PUBLIC WELFARE

COMMISSION FOR THE BLIND

Amendments to State Plan for Vocational Rehabilitation of the Blind

On October 6, 1970, Lloyd W. McCorkle, Commissioner of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:6-11, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted amendments to the State Plan for Vocational Rehabilitation of the Blind, as proposed in the Notice published September 10, 1970 at 2 N.J.R. 73(b).

An order adopting the above amendments was filed and effective October 13, 1970 as R.1970 d.126.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(f)

INSTITUTIONS AND AGENCIES

DIVISION OF PUBLIC WELFARE

BUREAU OF CHILDREN'S SERVICES

Manual of Standards for Children's Institutions

The State Board of Control of the Department of Institutions and Agencies, pursuant to authority of N.J.S.A. 30:1-14 through 17, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted a Manual of Standards for Children's Institutions, as proposed in the Notice published September 10, 1970 at 2 N.J.R. 73(c).

An order adopting the above rules was filed October 13, 1970 as R.1970 d.123.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(a)

INSURANCE

THE COMMISSIONER

Emergency Regulation Concerning Assigned Risk Plan

TO THE PRESIDENTS OF ALL PROPERTY AND CASUALTY COMPANIES DOING BUSINESS IN NEW JERSEY:

RE: New Jersey Automobile Plan

After consultation with members of the insurance industry and upon finding that applicants for automobile liability insurance have been unable to secure coverage above basic limits through ordinary methods, and that such applicants have been completely unable to secure medical payments coverage through ordinary methods, and upon a further finding that the results of such automobile insurance market conditions constitute an imminent peril to the interests and general welfare of the people of the State, I, Robert L. Clifford, Commissioner of Insurance, pursuant to authority delegated in N.J.S.A. 17:29D-1 et seq. and in accordance with Section 4(c) of the Administrative Procedure Act (N.J.S.A. 52:14B-4(c)) do hereby adopt the following emergency regulation without hearing or prior notice except as above set forth.

A summary of the regulation, the full text of which is on file with the Division of Administrative Procedure, the Department of Insurance, and the administrative office of the New Jersey Automobile Insurance Plan, is as follows:

The regulation creates a plan by which applications heretofore processed by the "Assigned Risk Plan," a voluntary association of insurers affording basic limits of automobile liability insurance only, will be processed by an association of insurers, the membership of which is mandatorily composed of all automobile liability insurers doing business in New Jersey.

In addition to providing basic limits liability coverage, the plan will provide, at the request of the applicant, increased limits of Bodily Injury Liability in amounts of \$50,000/\$50,000 and \$50,000/\$100,000, Property Damage to a limit of \$10,000, and Medical Payments coverage to a limit of \$1,000.

The regulation further provides for the apportionment of such applicants among participating insurers and the rates which such applicants may be charged. The effective date of the Plan is October 15, 1970.

Written comments, suggestions and recommendations concerning this regulation and any other proposals respecting any additions and modifications to the regulation are to be filed not later than November 30, 1970 with:

W. Morgan Shumake
Deputy Commissioner
Department of Insurance
State House Annex
Trenton, New Jersey 08625

Dated: October 15, 1970

Robert L. Clifford
Commissioner
Department of Insurance

Note: An order adopting the above rule was filed October 23, 1970 as R.1970 d.129 (Exempt, Emergency Rule).

(b)

LAW AND PUBLIC SAFETY

DIVISION OF WEIGHTS AND MEASURES

Packaged Commodities Regulations

In the public interest, certain portions of the regulations relating to packaged commodities of the Division of Weights and Measures, adopted pursuant to N.J.S.A. 51:1-29 and 51:1-61 are reprinted below.

N.J.A.C. 13:64.4, **Marking Requirements**

F. DECLARATION OF QUANTITY: CONSUMER PACKAGES.

(1) **LARGEST WHOLE UNIT.** — Where this regulation requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed in

(a) common or decimal fractions of such largest whole unit, or in
(b) the next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

(5) **TERMS: WEIGHT, LIQUID MEASURE, OR COUNT.** — The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

(6) **COMBINATION DECLARATION: WEIGHT OR MEASURE.** — A declaration of quantity in terms of weight or measure shall be accompanied by a declaration of the count or size of the individual units of the commodity,

unless a declaration of weight or measure alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.

(7) **COMBINATION DECLARATION: COUNT.** — A declaration of quantity in terms of count shall be accompanied by a declaration of the weight, measure, or size of the individual units of the commodity, or of the total weight or measure of the commodity, unless a declaration of count alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.

(8) **UNITS: WEIGHT, MEASURE.** — A declaration of quantity

(a) in units of weight shall be in terms of the avoirdupois pound or ounce;

(b) in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at 68°F (20°C), except in the case of petroleum products, for which the declaration shall express the volume at 60°F (15.6°C), and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40°F (4°C);

(c) in units of linear measure shall be in terms of the yard, foot, or inch;

(d) in units of area measure, shall be in terms of the square yard, square foot, or square inch;

(e) in units of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches, or peck, dry-quart, and dry-pint subdivisions of the bushel;

(f) in units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch;

Provided, That in the case of prescription drugs, or in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of the Metric System of weight or measure.

(9) **ABBREVIATIONS.** — Any of the following abbreviations, and none other, may be employed in the quantity statement on a package of commodity:

avoirdupois	avdp	quart	qt
cubic	cu	square	sq
feet or foot	ft	weight	wt
fluid	fl	yard	yd
gallon	gal	cubic centimeter	cc
inch	in	gram	g
liquid	liq	kilogram	kg
ounce	oz	microgram	mcg
pint	pt	milligram	mg
pound	lb	milliliter	ml

(There normally are no periods following, nor plural forms of, these abbreviations. For example, "oz" is the abbreviation for both "ounce" and "ounces".)

(10) **UNITS WITH TWO OR MORE MEANINGS.** — When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term "fluid"; however, such distinction may be omitted when, by association of terms (for example, as in "1 pint 4 ounces"), the proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word "dry".

(11) **PRESCRIBED UNITS.**

(12) **LESS THAN ONE FOOT, ONE SQUARE FOOT, ONE POUND, OR ONE PINT.** — The declaration of quantity shall be expressed in terms of

(a) in the case of length measure of less than one foot, inches and fractions of inches;

(b) in the case of area measure of less than one square foot, square inches and fractions of square inches;

(c) in the case of weight of less than one pound, ounces and fractions of ounces;

(d) in the case of fluid measure of less than one pint, ounces and fractions of ounces;

Provided, That the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two decimal places.

(13) **FOUR FEET, FOUR SQUARE FEET, FOUR POUNDS, ONE GALLON, OR MORE.** — In the case of

(a) length measure of four feet or more

the declaration of quantity shall be expressed in terms of feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches. In the case of

(a) area measure of four square feet or more;

(b) weight of four pounds or more;

(c) fluid measure of one gallon or more

the declaration of quantity shall be expressed in terms of the largest whole unit.

(14) **WEIGHT: DUAL QUANTITY DECLARATION.** — On packages containing one pound or more but less than four pounds, the declaration shall be expressed in ounces and, in addition, shall be followed by declaration in parentheses, expressed in terms of the largest whole unit: **Provided,** That the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places.

(15) **FLUID MEASURE: DUAL QUANTITY DECLARATION.** — On packages containing one pint or more but less than one gallon, the declaration shall be expressed in

ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

(16) **LENGTH MEASURE: DUAL QUANTITY DECLARATION.** — On packages containing one foot but less than four feet, the declaration shall be expressed in inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

(17) **AREA MEASURE: DUAL QUANTITY DECLARATION.** — On packages containing one square foot but less than four square feet, the declaration shall be expressed in square inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

(18) **BIDIMENSIONAL COMMODITIES.** — For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed,

(a) if less than one square foot, in terms of linear inches and fractions of linear inches;

(b) if at least one square foot but less than four square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit: **Provided, That**

(1) no square inch declaration is required for a bidimensional commodity of four inches width or less, and

(2) a dimension of less than two feet may be stated in inches within the parenthetical, and

(3) commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see Subsection F.(19) COUNT: PLY, require a declaration of unit area but not a declaration of total area of all such units;

(c) if four square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole units: **Provided, That**

(1) no declaration in square feet is required for a bidimensional commodity with a width of four inches or less,

(2) a dimension of less than two feet may be stated in inches within the parenthetical, and

(3) no declaration in square feet is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(19) **COUNT: PLY.** — If the commodity is in individually usable units of one or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this regulation, include the number of ply and the total number of usable units.

Roll-type commodities, when perforated so as to identify individual usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of

- (a) total area measurement and
- (b) number of ply,
- (c) count of usable units, and
- (d) dimensions of a single usable unit.

(20) **REDUCTION OF FRACTIONS.** — Fractions employed in declarations of quantity may be either common fractions or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds, and shall be reduced to its lowest terms. A decimal fraction shall not be carried out to more than two places: **Provided,** That if there exists, with respect to a particular commodity, a firmly established general consumer usage and trade custom contrary to the requirement pertaining to common fractions, as set forth above, the declaration may be made in accordance with such usage and custom: **And provided further,** That in the case of prescription drugs, a decimal fraction may be carried out to three places.

(21) **SUPPLEMENTARY DECLARATIONS.**

(22) **SUPPLEMENTARY QUANTITY DECLARATIONS.** — The required quantity declaration may be supplemented by one or more declarations of weight, measure, or count, such declaration appearing other than on a principal display panel, provided that such supplemental declaration shall be accurate and shall not be so located as to detract from, or confuse, or mislead as to the precise meaning of the required declaration. Such supplemental statement of quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package (e.g., "giant" quart, "full" gallon, "when packed," "minimum," or words of similar import).

(23) **METRIC SYSTEM DECLARATIONS.** — A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement of quantity in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.

(24) **QUALIFICATION OF DECLARATION PROHIBITED.** — In no case shall any declaration of quantity be qualified by the addition of the words "when packed," "minimum," or "not less than," or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term such as "jumbo," "giant," "ful," or the like.

Copies of the full text of the regulations of the Division of Weights and Measures may be obtained, without cost, by contacting any county or municipal Weights and Measures Superintendent, or by writing or telephoning:

Division of Weights and Measures
187 West Hanover Street
Trenton, New Jersey 08625
Telephone: (609) 292-4615

(a)

LAW AND PUBLIC SAFETY
DIVISION OF MOTOR VEHICLES
Rules Concerning Visual Tire Inspection

On September 22, 1970, Ronald M. Heymann, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:3-72 (as amended P.L. 1970 c.129), and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted rules concerning visual tire inspection, as proposed in the Notice published August 6, 1970 at 2 N.J.R. 67(d).

An order adopting the above rules was filed and effective October 13, 1970 as R.1970 d.122.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(b)

LAW AND PUBLIC SAFETY
POLICE TRAINING COMMISSION
Administrative Services Bureau Rules

On September 28, 1970, the Police Training Commission in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 52:17B-71(h), and in accordance with applicable provisions of the Administrative Procedure Act of 1968, repealed Subchapter 11 of Chapter 1 of Title 13 of the Administrative Code, "Administrative Management Services," and adopted in place thereof a new Subchapter entitled "Police Administrative Services Bureau," as proposed in the Notice published August 6, 1970 at 2 N.J.R. 67(f).

An order adopting the above rules was filed October 1, 1970 as R.1970 d.120.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(c)

TRANSPORTATION
DIVISION OF MAINTENANCE
AND EQUIPMENT
Proposed Rules Governing Maintenance,
Protection of Traffic During Permit Operations

John C. Kohl, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:7-44.1, proposes to adopt rules governing the maintenance and protection of traffic during permit operations.

The proposed rules of the Division of Maintenance and Equipment are necessary in order to provide ample protection to the public during permit operations within Transportation jurisdiction.

The proposed rules read as follows:

16:41-8 MAINTENANCE AND PROTECTION OF TRAFFIC DURING PERMIT OPERATIONS: All work performed within the control and jurisdiction of the New Jersey State Department of Transportation shall be adequately maintained and ample provision must be made for the protection of the public.

The following rules shall be in effect and the contractor hereafter referred to shall mean the working contractor or person actively engaged in performing the work and not necessarily the permittee:

(a) The contractor shall be responsible for having the required approved traffic devices on hand prior to the actual start of work.

(b) The contractor shall be responsible for the placing and maintenance of all such devices during the work period and for their removal upon completion of the work.

(c) The contractor shall maintain the uninterrupted flow of traffic at all times and no operation which will interfere with traffic or restrict the available pavement width shall be performed on Saturdays, Sundays, or legal holidays unless approved by the local municipal authorities, and the District Superintendent, Division of Maintenance and Equipment, having jurisdiction over that district in which the activity is proposed.

(d) The contractor will not be permitted to store material or park equipment within the graded width of the right-of-way except as necessary during actual working operations and then only by permission of the District Superintendent, Division of Maintenance and Equipment, or his authorized representative.

(e) The contractor shall be responsible for maintaining approved construction warning signs in each direction of travel. All signs and other protective devices provided by the contractor, unless otherwise directed, shall comply with the requirements of the manual on "Uniform Traffic Control Devices for Streets and Highways" (purchasable from the United States Department of Transportation, Federal Highway Administration, Bureau of Public Roads, Donohoe Building, 6th and D Streets S.W., Washington, D.C. 20591) promulgated by the United States Bureau of Public Roads 1961 (A.S.A. D6, 1-1961).

(f) Competent traffic directors shall be employed at every location where the contractor's equipment is working immediately adjacent to, or is entering, leaving, or crossing active traffic lanes. The traffic directors shall be employed continuously for the full time such conditions exist.

(g) When steel drums are utilized to define a traffic hazard or pavement edge on the project site, they shall be painted a bright yellow and must be kept clean and shall be repainted as required to provide maximum delineation.

(h) In the event a detour has been approved by the

Department, the detour shall be established in accordance with Departmental Policy and applicable standards and specifications. (See N.J.A.C. 16:41-22)

(i) Reflectorized tape shall be provided and installed by the contractor to effect temporary changes in pavement markings. Permanent markings which are inappropriate or misleading shall be obliterated. Upon completion of the job, all pavement markings shall be restored by the contractor to their original configuration.

(j) Should it become necessary to leave a project unfinished, it shall be protected during the hours of darkness by torch bombs and/or flasher lights to be maintained by the contractor at each location where it is necessary to warn oncoming traffic of an existing danger area. Torches or lights shall also be used to define the edge of usable pavement throughout the construction area. In addition, standard barricades or drums shall be utilized as required. When battery operated flashing warning lights are implemented, they shall conform to the specifications on file at, and available upon request from, the office of the Bureau of Safety, Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. Inspection and cleaning must be conducted daily to provide for optimum efficiency.

(k) When work is in progress during hours of darkness, special traffic protection precautions shall be in effect as deemed necessary by the Department. In substance, the contractor shall provide special signs approved by the Department with a legend warning motorists that night work is in progress, and such signs shall be displayed in conjunction with high intensity flasher lights. Special signs applying only to nighttime work shall be covered during the daylight hours.

All work will be subject to inspection by the District Superintendent, Division of Maintenance and Equipment, or his authorized representative, and the Department's Bureau of Safety personnel to insure that adequate traffic protection devices are being used and are properly placed and maintained.

If it is found that insufficient traffic protection is provided, the District Superintendent, Division of Maintenance and Equipment, will advise the contractor of the deficiency. If recommended requirements are not immediately corrected, the District Superintendent, Division of Maintenance and Equipment, will advise the contractor that he is prohibited from further work within the District's jurisdiction until such time as approved and adequate traffic protection is provided.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before November 25, 1970 to:

Jack F. Andrews, Director
Division of Maintenance and Equipment
Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625

The Department of Transportation, upon its own motion or at the instance of any interested party, may thereafter adopt the proposed rules without further notice.

John C. Kohl
Commissioner
Department of Transportation

(d)

TREASURY
DIVISION OF PENSIONS
STATE HEALTH BENEFITS COMMISSION
Proposed Changes in Rules of
State Health Benefits Program

William J. Joseph, Secretary of the State Health Benefits Commission in the Department of the Treasury, pursuant to authority of N.J.S.A. 52:14-17.27, proposes to amend N.J.A.C. 17:9-3, 5, 6, 31, 48 and 51, to read as follows (additions indicated in bold face thus; deletions indicated within brackets (thus)):

17:9-3. APPEALS FROM COMMISSION DECISIONS:

[Appeals from any decision of the Commission must be registered in writing with the Commission within 45 days following formal advice to the aggrieved party. If no written statement is received within the 45-day period, the determination of the Commission shall be considered final.]

The following statement shall be incorporated in every written notice setting forth the Commission's determination in a matter where such determination is contrary to the claim made by the claimant or his legal representative:

"If you disagree with the determination of the Commission in this matter, you may appeal by sending a written statement to the Commission within 45 days from the date of this letter, informing the Commission of your disagreement and all of the reasons therefor. If no such written statement is received within the 45-day period, this determination shall be considered final."

17:9-5. VOLUNTARY TERMINATION OF EMPLOYER; NOTICE:

For purposes of local coverage, where a participating employer voluntarily terminates coverage, the coverage for his active and retired employees shall terminate at the end of the coverage period corresponding to the premiums that have been transmitted to the carriers by the Division of Pensions. The employer shall be barred as a participating employer from future reentry into the program.

The [Secretary] Division of Pensions shall act to notify all retired employees or survivors of the termination of coverage.

17:9-6. DEFAULT OF EMPLOYER; NOTICE:

For purposes of local coverage, a participating employer will be considered in default 31 days after the beginning of the coverage period for which premiums were due. At

that point, coverage will terminate for all employees and their dependents covered by the employer.

The Secretary of the Commission will notify the Attorney General's Office, the Division of Local Finance, the Department of Education, and the carriers. [He] The Division of Pensions will notify every participating employee, active and retired, or survivors, of the termination of coverage.

17:9-31. STATE; FULL-TIME DEFINED:

For purposes of State coverage, "full-time" shall mean: A. The normal full-time weekly schedule for the particular class title, and in any case not less than 35 hours per week.

B. Employment for twelve months, except in the case of those employees engaged in activities where the regular and normal work schedule is ten months.

C. Sabbaticals where the compensation paid is 50% or more of the salary granted just prior to the leave and the period of eligibility terminates with the end of the fiscal year.

D. Public defenders who are paid on the basis of an average 30-hour week work schedule, notwithstanding Rule 17:9-33.d.

17:9-48. COVERAGE FOR PROSPECTIVE RETIRANTS:

For purposes of retired coverage, continuity of coverage may be extended until such time as the application for retirement is formally approved by the board of trustees of the retirement system paying the benefit or by the carrier underwriting the individual annuity contracts. If it is not necessary for a board of trustees to approve the application, then the retirement application will be considered approved when the necessary action has been taken by the governing body or the carrier. The retiring employee or eligible dependent of a retired employee must submit personal payments to the Health Benefits program in order to continue coverage. Should coverage lapse through no fault of the retired employee or his spouse who would be eligible to continue such coverage, retroactive coverage may be granted up to a period of three months, provided premiums are received. Any retroactive coverage to be extended beyond the three month period may be presented to the State Health Benefits Commission for approval.

An employee, upon retirement, or an eligible survivor of such employee, will be notified by certified mail of his right to continue coverage in the State Health Benefits program. The retired employee or eligible survivor must, within a 15-day period following the receipt of the letter offering retired coverage, submit the appropriate application and premiums for such coverage.

17:9-51. TERMINATION CONVERSION RIGHTS; EFFECTIVE DATES:

The coverage of an employee and such employee's dependents shall be terminated, subject to the conversion rights, whenever such employee's eligibility shall cease for any of the reasons given below. The effective date of termination shall be the last day of the coverage period corresponding to the payroll period or month in which the last payroll deduction was made from the employee's salary for the coverage of dependents, if any are required, or the last premium shall have been paid by the State for the employee's coverage or by the local employer for the employee and/or his dependents, as the case may be. The reasons for the termination of eligibility are as follows:

a.) Leave of Absence Without Pay — The coverage of an eligible employee and of an employee's dependents during any period of authorized Leave of Absence Without Pay shall terminate on the last day of the second coverage period following the last payroll period or month for which the employee received a salary payment; except that coverage of such employee and such employee's dependents may be continued by such employee, provided that the employee shall pay in advance the total premium required for the employee's coverage and coverage of the employee's dependents during such period of authorized Leave of Absence Without Pay; provided that no period of continued coverage, as provided above, shall exceed a total of six biweekly payroll periods, or three months, during which the employee receives no pay.

b.) Change to Part-Time Status — In the event that an employee's active full-time employment shall cease and employee shall become a "part-time" employee, such employee's Basic Benefits and Major Medical Benefits coverage, and the coverage of such employee's dependents, shall be terminated.

However, please see Rules 17:9-31. and 17:9-35. in reference to the limited continuation of coverage while on sabbaticals.

c.) Resignation, Temporary Layoff, Reduction in Force — The coverage of an employee whose eligibility has ceased because of his resignation, temporary layoff, separation through a reduction in force, or any other reason, and the coverage of his dependents shall be terminated subject to the conversion rights.

d.) Workmen's Compensation — An employee who has an award pending, or who received an award of periodic benefits under Workmen's Compensation, may continue his coverage and the coverage of his dependents, provided that the employee shall pay to his employer in advance that portion, if any, of the premiums due from the employee to continue the coverage under his existing contract.

Interested persons may present statements or arguments in writing, orally in person or by telephone relevant to the proposed action before 4:00 p.m. on November 30, 1970 to:

William J. Joseph, Secretary
State Health Benefits Commission
137 East State Street
Trenton, New Jersey 08625
Telephone: (609) 292-3676

After full consideration of all written and oral sub-

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State Health Benefits Program—continued

Discussions respecting the proposed amendments, the New Jersey State Health Benefits Commission, upon its own motion, may thereafter adopt the amendments substantially as proposed without further notice.

William J. Joseph, Secretary
State Health Benefits Commission
Department of the Treasury

(a)

TREASURY

**VISION OF TAXATION
CORPORATION TAX BUREAU
Amendments to Corporation
Business Tax Regulations**

On October 5, 1970, Sidney Glaser, Acting Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:10A-27, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted amendments to N.J.A.C. 17:1, 17, 20, 31 and 90 of the corporation business tax regulations so as to implement the recent statutory changes pursuant to P.L. 1970 c.93, substantially as proposed in the Notice published September 10, 1970 at 2 N.J.R. 78(a).

An order adopting the above amendments was filed and effective October 5, 1970 as R.1970 d.121.

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(b)

**HACKENSACK MEADOWLANDS
DEVELOPMENT COMMISSION**

**Revised Fee Schedule Implementing
Stage I of Master Plan**

On September 8, 1970, the Hackensack Meadowlands Development Commission, pursuant to authority of N.J.S.A. 13:17-1 et seq., and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted a revised fee schedule implementing Stage I of its Master Plan which provides for the payment of certain fees for approvals by the Commission, as follows:

— Building Code

(a) Fees for building permits, except as herein specified:
\$.002 per cubic foot for the first 50,000 cubic feet,
\$.001 per cubic foot for the next 250,000 cubic feet,
\$.0005 per cubic foot for the volume in excess of 300,000 cubic feet, but not less than \$15.00 per permit.

(b) Fee for single or two-family residence shall be \$.001 per cubic foot, but not less than \$15.00 per permit.

(c) No fee for a garage ancillary to a single or two-family residence on the same plot.

(d) A fee equal to 75¢ for each 1000 square feet or fraction thereof of seating area and of each tier of seats and their appurtenant aisles, passageways, rest rooms, sanitary facilities, spaces, etc., for open air spaces assembly, whether for amusement, instruction, entertainment, religious services or any other purposes. For the purpose of determining areas for computing fees, the area shall be the projected horizontal area of each seating area and each tier.

(e) A fee equal to \$5.00 for the first \$1000 or any fraction thereof of the structure;

\$3.00 for each additional \$1000 or fraction thereof of cost of \$5000 of the structure; \$1.50 for each additional \$1000 or fraction thereof of the structure of cost over \$5000; but not less than \$15.00 for structures such as radio aerial towers and masts, tank structures and other structures to which fees may not be readily applied pursuant to any other provision contained herein.

(f) For open spaces:

(1) \$1.00 per each 2000 square feet of area, but not less than \$15.00 for space without roof either enclosed or unenclosed on sides, such as commercial parking lots, gasoline or oil storage yards, sale or exhibition or showing spaces, and spaces used for generally similar purposes.

(2) for golf courses and driving ranges, \$2.00 for each 20,000 square feet of area or fraction thereof, but not less than \$15.00, including an accessory structure not to exceed 144 square feet.

(g) A fee for demolition in the amount of \$25.00.

(h) No fee for repair or alterations.

(i) No fee for additions where the value is under \$5000.

II—Subdivision

(a) No fee for sketch plat for a major subdivision.

(b) A fee of \$35.00 for a sketch plat in a minor subdivision.

(c) A fee of \$50.00 for the preliminary plat for a major subdivision.

(d) No fee for the final approval of a major subdivision.

(e) A fee of 1/4 of 1% of the value of improvement for inspection of improvements.

(f) A fee of \$50.00 for waiver applications.

III—Zoning

(a) A fee of \$50.00 for a zoning certificate.

(b) No fee for sign review, site plan, variance, special use or occupancy.

This fee schedule shall not be applicable to the federal government, state, county or municipality, or any instrumentality thereof. Any fee, or portion thereof, provided herein may be waived by the Office of Chief Engineer consistent with provisions of the Stage I Master Plan Resolutions.

Any single application which encompasses several uses will be subject to the appropriate fees enumerated herein.

A full refund of fees will be made by the Office of Chief Engineer provided that the written request is received before the close of the second working day after receipt of the same.

This fee schedule shall take effect immediately upon formal adoption by the Commission consistent with the procedure set forth in Chapter 404, Laws of 1968.

An order adopting the above revised fee schedule was filed September 25, 1970 as R.1970 d.118 (Exempt, Practice Rule).

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(c)

PORT OF NEW YORK AUTHORITY

**Vehicular Parking Rates,
Fumigation Charges Amended**

On August 6, 1970, the Board of Commissioners of the Port of New York Authority, adopted resolutions entitled "Revision to the Schedule of Air Terminal Charges—Public Vehicular Parking Rates," "Bus Terminal—Public Vehicular Parking Rates Revision to the Schedule of Charges" and "Port Authority Marine Terminals—Schedule No. FT-1—Fumigation Charges."

Copies of the above resolutions were filed August 27, 1970 as R.1970 d.102 (Exempt, Exempt Agency Rules).

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(d)

PORT OF NEW YORK AUTHORITY

Marine Terminal Rates Amended

On September 3, 1970, the Board of Commissioners of the Port of New York Authority, adopted a resolution entitled "Port Newark and Elizabeth-Port Authority Marine Terminal—P.A.M.T. FMC Schedule No. PA-9—Revisions."

A copy of the above resolution was filed September 24, 1970 as R.1970 d.117 (Exempt, Exempt Agency Rule).

Albert E. Bonacci
Director of Administrative Procedure
Department of State

(e)

PORT OF NEW YORK AUTHORITY

**Airport Public Area Maps,
Marine Terminal Charges Revised**

On September 30, 1970, the Board of Commissioners of the Port of New York Authority, adopted resolutions entitled "Kennedy International Airport—Revision of Map of Public Areas and Air Terminal Highways," "LaGuardia Airport—Revision of Map of Public Areas and Air Terminal Highways," "Newark Airport—Revision of Map of Public Areas and Air Terminal Highways," and "Port Authority Marine Terminals—FMC Schedule No. PA-9 Revisions."

Copies of the above resolutions were filed October 23, 1970 as R.1970 d.128 (Exempt, Exempt Agency Rules).

Albert E. Bonacci
Director of Administrative Procedure
Department of State

**STATE NEWS OF
PUBLIC INTEREST**

**OPINION ON TERMS OF OFFICE
OF VARIOUS STATE OFFICERS**

George F. Kugler Jr., Attorney General of New Jersey, issued the following Formal Opinion on Oct. 6, 1970:

Honorable Paul T. Sherwin
Secretary of State
State House
Trenton, New Jersey 08625

FORMAL OPINION 1970 — No. 1

Dear Secretary Sherwin:

You have requested our opinion as to when the terms of office of the various state officers appointed pursuant to the New Jersey Constitution begin to run. It is our conclusion that the terms of office of these officers begin as of the date of the commission issued by the Governor and that the issuance of a commission rests within the sole discretion of the Governor.

The New Jersey Constitution expressly states that terms of office commence as of the date of the commission:

"The term of office of all officers elected or appointed pursuant to the provisions of this Constitution, except as herein otherwise provided, shall commence on the day of the date of their respective commissions; but no commission for any office shall bear date prior to the expiration of the term of the incumbent to said office." Art. VII, §1, par. 5.

While this paragraph provides that the date of a commission may not antedate the expiration of the term of the incumbent, it does not otherwise specify what date a commission shall bear. To answer this question, therefore, it is necessary to consider the function of a commission

within the framework of the New Jersey Constitution.

The procedure for the appointment of officers and issuance of commissions is provided by Art. V, §1, par. 12 of the Constitution:

"... [The Governor] shall grant commissions to all officers elected or appointed pursuant to this Constitution. He shall nominate and appoint, with the advice and consent of the Senate, all officers for whose election or appointment provision is not otherwise made by this Constitution or by law."

The relationship between executive appointment and the issuance of commissions was set forth in the landmark case of *Marbury v. Madison*, 5 U.S. 137 (1803). Chief Justice Marshall, speaking for the Court, described the federal appointive process as consisting of three parts: nomination, confirmation and appointment. The actual power of appointment is in the hands of the President alone, who may, after his nominee has been confirmed by the Senate, act upon this advice and appoint the nominee. The issuance of the commission is conclusive evidence of the appointment. Therefore, an officer's term does not begin when he is confirmed by the Senate because at the moment of confirmation, the officer has not yet been appointed:

"Some point of time must be taken when the power of the executive over an officer, not removable at his will, must cease. That point of time must be when the constitutional power of appointment has been exercised. And this power has been exercised when the last act, required from the person possessing the power, has been performed. This last act is the signature of the commission." 5 U.S. at 157.

While there is a minor difference in phraseology between the pertinent provisions of the United States and New Jersey Constitutions, a long line of cases decided since *Marbury v. Madison* have established that, irrespective of particular constitutional phraseology, the appointment of an officer is an independent executive act, evidenced by the commission, which must be performed subsequent to legislative confirmation to complete the appointive process. E.g. *United States v. Le Baron*, 60 U.S. 525 (1856); *Draper v. State*, 175 Ala. 547, 57 So. 772 (1911); *State ex rel. Coogan v. Barbour*, 53 Conn. 76, 22 A. 686 (1885); *Johnson v. Sampson*, 232 Ky. 648, 24 S.W. 2d 306 (1930); *People ex rel. Babcock v. Murray*, 70 N.Y. 521 (Ct. App. 1877); *Conger v. Gilmer*, 32 Cal. 75 (Sup. Ct. 1867). In *People ex rel. Babcock v. Murray*, supra, where a mayor had the power of appointing certain officers, the court said:

"The act of signing the commission completes the appointment as well as perpetuates the evidence of it. . . . The appointment under this delegated authority is inchoate until the last act to be done by the appointing power is completed, and that is the signing of the writing or the commission. The appointment is then, and not before, 'evidenced by an unequivocal act.'" 70 N.Y. at 526-527.

And in *Conger v. Gilmer*, supra, the court said:

"Until the last act has been performed the whole matter is in fieri, and within the control of the person or persons by whom the appointment is to be made, and there is nothing to prevent them from changing their minds and appointing some other person other than the one first selected. Suppose the Governor should be called upon to fill a vacancy and should determine in his own mind to appoint a particular individual. Undoubtedly he may change his mind as often as he may please until he has finally signed a commission to some particular individual. Until then he has not acted." 32 Cal. at 79.

The case of *Harrington v. Pardee*, 1 Cal. App. 278, 82 P. 83 (1905) is particularly instructive concerning the nature of such an appointive process. The Governor of California nominated the plaintiff to an office and sent the nomination to the State Senate, which confirmed it. The Governor failed to issue a commission before he left office and, when his successor refused to issue one, a mandamus proceeding was brought. It was urged that the statute under which the plaintiff's name had been submitted to the legislature drew no distinction between "nomination" and "appointment," merely stating that the officer be "appointed by the Governor with the advice and consent of the Senate," and that the appointment was therefore completed when the name was submitted to the legislature. Nevertheless, the court found that a three-part appointive procedure had been intended:

"In all such appointments the first step to be taken is the suggestion by the Governor to the Senate of the name of a person for the office, and to ask the advice of the Senate, and for its consent for him to appoint such person; the second step is the advice and consent of the Senate, which is manifested by a resolution certified to the Governor and to the Secretary of State; and the third and last step is the issuing of the commission signed by the Governor, and this is the evidence of such appointment.

"Plaintiff contends that 'nominate' and 'appoint' are synonymous terms and mean the same thing, and that therefore, when the Governor has nominated, he has appointed. Doubtless there are some instances where these terms may be used to mean one and the same thing, but by no process of reasoning can it be true that in 'nominating' to the Senate the Governor is 'appointing' the person to the office, because he cannot appoint without the advice and consent of the Senate. The 'appointment' is not made until the 'commission' is issued, and issuing the same is the last act, and in issuing the commission the Governor is performing an executive, and not a ministerial, act, and is therefore acting under his discretionary powers, and may or may not issue the commission, although the Senate may have advised it and consented that he should make the appointment." *Harrington v. Pardee*, supra, at 279-280.

Compare *State v. Governor*, 25 N.J.L. 331 (Sup. Ct. 1856) which involved the issuance of a commission to an elected officer.

Opinion on Terms of Office—continued

We have been advised that some commissions have been dated as of the day the officer takes his oath and it has been suggested that all commissions should be automatically dated as of that date. It is well established, however, that the oath required by the New Jersey Constitution (Art. VII, §1, par. 1) simply "qualifies" any state officer appointed pursuant to the Constitution to enter upon the execution of his duties. In *Haight v. Love*, 39 N.J.L. 14 (Sup Ct. 1876) aff'd 39 N.J.L. 476 (E. & A. 1877), the Court of Errors and Appeals, in determining that the term of office of an appointed municipal tax collector began on the date of appointment and not the date of taking the oath, stated as follows:

"It is apparent that if [the term in question] did not begin to run until he was qualified, he could, in the absence of any restraining legislation, have prolonged his prior term indefinitely by his own failure to qualify. Public policy would forbid the adoption of a rule under which such a result is possible. It would make the beginning of an official term to depend upon the will of the appointee, instead of the will of the appointing power. . . ." 39 N.J.L. at 479 (Emphasis added).

Although there is therefore no basis for automatically dating commissions as of the day on which an officer takes his oath, it should be emphasized that the Governor, in his discretion, may grant a commission at any time between confirmation and the administration of the oath, even on the same day as the oath itself.

We have also been advised that some commissions bear the date of confirmation of the officer and it has been suggested that commissions might automatically bear this date. It is our opinion that it is appropriate to grant a commission on the date of confirmation only if the Governor, in his discretion, decides to make the appointment on that date and thereupon grants the commission. Otherwise, if a commission were automatically issued immediately upon confirmation, this would place the final power of appointment in the Senate, contrary to the provisions of the New Jersey Constitution which confer upon the Governor the power to make appointments and to grant commissions.

Therefore, it is our opinion that the term of office of state officers appointed pursuant to the Constitution commences as of the date of the commission issued by the Governor, and that the commission may bear whatever date the Governor selects from the date of confirmation to the date on which the oath is taken, provided it is not prior to the expiration of the term of the incumbent to the office.

We further advise you that in determining the date of termination of any particular term of office, you should refer to the specific constitutional or statutory provisions which govern that office.

Where the applicable constitutional or statutory language indicates that an appointment shall be made to fill an unexpired term or provides a specific date of termination of a term of office, the appointment shall be only for the period thus indicated.

In all other situations, the date of termination of a term of office may be determined by the length of the term provided by law, commencing on the date of the commission issued by the Governor.

Very truly yours,
George F. Kugler Jr.
Attorney General

LIMITED RISE IN ELECTRIC RATES GRANTED BY PUC IN HALF OF STATE

Effective this month, rate increases of about nine percent over earlier this year will be paid for electricity by well over a half-million customers, as the result of an Oct. 8 rate decision by the state Public Utility Commission.

But despite the rise, the PUC order cut by 31 percent the increase in rates which had been asked by the two affiliated utility firms which service 235 municipalities in 12 northern and central counties of New Jersey. All home, commercial and industrial users are affected—in an area which makes up about half the state.

The two firms—Jersey Central Power & Light and New Jersey Power & Light Co.—serve the counties of Middlesex, Mercer, Ocean, Burlington, Monmouth, Passaic, Morris, Union, Sussex, Warren, Hunterdon and Somerset. Both utilities are owned by General Public Utilities Corp., a holding company.

Their joint application had asked for a rate increase of about \$18½ million, but the decision announced by PUC President William E. Ozzard cut these requests by nearly \$6 millions. The reduction for New Jersey Power amounted to 42 percent from the rate they requested, and for Jersey Central the cut was 28 percent, Ozzard noted.

But since both firms had been granted a large portion of the final increase in an interim decision effective last July 13, the current jump in individual bills over last month will be well below the total nine-plus percent allowed. Notice of the actual amount of increase is required to be sent to all customers.

Ozzard commented: "This rate case has been an extraordinarily long one in terms of the size of the rate hike requested."

"We were required to issue an interim decision in June so that the company would have sufficient earning power to allow them to continue to borrow the money they needed to continue expansion of essential services."

The rate of return allowed under the final ruling is 7.75 percent for Jersey Central and 7.57 percent for the smaller New Jersey Power, which also has less plant investment in generating facilities.

As of the close of 1968, the year on which the basic data for the rate case was based, Jersey Central was serving 379,000 customers in 130 municipalities, with New Jersey Power having 142,000 customers in 105 municipalities.

STATE NEWS OF PUBLIC INTEREST

CITIZEN AID ASKED IN CHECKING ON ABUSES OF THE ENVIRONMENT

Citizens can now call (609) 292-7172 to report abuses of the environment.

That's the phone number in Trenton for a new service inaugurated Oct. 22 by the State Department of Environmental Protection to aid in the investigation and correction of complaints from the public.

"This 24-hour service will increase the effectiveness of our surveillance of possible environmental damage, and provide a greater benefit to the public," says Richard J. Sullivan, state Commissioner of Environmental Protection.

He explains:

"Citizens can call any hour of the day or night to report air or water pollution incidents, suspicious dredging or filling operations, or any other incident which might harm the environment.

"It helps us by providing the department with more eyes and ears than we can afford to hire, and it helps the citizen by giving him a central place to call with any complaint about the environment."

During non-working hours, calls to (609) 292-7172 will be taken by an answering service, but if the caller reports an emergency situation, the answering service will immediately contact the responsible department official at his home. Non-emergency calls will be reported to the Commissioner's office the next morning.

\$13,803,000 STATE AID ALLOCATED FOR 145 LOCAL ROAD PROJECTS

Transportation Commissioner John C. Kohl last month announced \$13,803,000 in allocations for 145 county and municipal projects throughout the state under the State Aid Road System program.

The money, which is distributed on a 50-50 matching basis to counties, and a 75-25 basis to municipalities, will go for construction and improvement of major local and county roads and bridges which connect to and supplement the state highway system.

The Commissioner said that the Department received 265 applications for funds totaling \$35,001,585. Ninety-six of the applications requesting \$20,349,179 were received from county governments, and allotments of \$9,398,000 were made for 62 of them.

On the municipal level, 169 applications totalling \$14,652,406, and \$4,405,000 will be made available for 83 jobs.

The fund distribution was under the 1967 State Aid Road System Act and is in addition to state distribution of \$16.3 million under older formulas.

The Commissioner said that applications which failed to qualify this year for funds can be given consideration in the future.

"This widespread decision to participate in the program, with about twice the \$15 million available for distribution sought by applicants, speaks effectively for the appeal of the program," he noted.

13 SCHOOL DISTRICTS ARE PART OF SELF-IMPROVEMENT PROGRAM

A new Department of Education program to help local school systems improve their educational programs is being launched during the current year in 13 school districts.

It is designed to help a district assess its needs and to provide follow-up services to bring about improvement. Some 300 educators from throughout the state will serve as field consultants on the self-improvement program.

The districts that will pilot the program in 1970-71 are: South Orange-Maplewood, Monroe Township, East Brunswick Township, Metuchen, East Hanover Township, Florham Park, Hanover Park Regional, Hanover Township, Brick Township, West Milford, Alloway Township, Woodstown-Pilesgrove Regional and Upper Pittsgrove Township.

A district initially will conduct a self-study of its entire school system, after which a visiting team will review the study and provide expert help in the determination of needs. A follow-up team then will work with the district to produce improvement.

A one-year moratorium has been placed on the department's regular secondary school approval visits in order to place major efforts on the new program. Only new secondary schools and those with limited approvals will be visited on the regular schedule.

ANNUAL FARM STATISTICS REPORT AGAIN AVAILABLE

The 1969 edition of New Jersey agricultural statistics, which covers all important crop and livestock data for the year, has been published by the New Jersey Crop Reporting Service and single copies are available on request.

Circular 453 has six sections covering weather and field crops, vegetables, fruits and berries, livestock and dairy, poultry, and farm income and prices.

It covers the rank of New Jersey counties and of states in selected agricultural items, crop summaries, farm labor, index numbers of agricultural production and output per farm, certified nurseries, flowers and foliage plants, number of farms, land in farms and fertilized consumption.

Single copies may be obtained by writing: New Jersey Department of Agriculture, P.O. Box 1888, Trenton, N.J. 08625.

TAX STUDY GROUP ANNOUNCES SERIES OF PUBLIC MEETINGS

Governor William T. Cahill's Tax Policy Committee has opened an initial series of six public hearings in its overall study of the State's tax structure.

The non-partisan advisory committee of 43 members was appointed earlier this year by the Governor, with State Senator Harry L. Sears serving as chairman. William Miller is staff director.

The committee has been divided into five task forces, with each group holding separate hearings. The five areas of study are: property tax, with Leonard C. Johnson as chairman; service levels, costs and allocations, Robert N. Wilentz; public credit, John J. Magovern Jr.; needs and forecasts, former Governor Alfred E. Driscoll; and revenue resources and tax inequities, headed by Richard V. DeKorte.

Chairman Sears said the hearings are designed to give interested persons and organizations "full opportunity to express opinions on these difficult, vexing problems." He added that the committee anticipates "differing views" and that a second series of hearings would be held early next year after the committee has formulated tentative recommendations.

First hearing of the property tax unit was last month, with a second session Nov. 18 at the Haddon Hall in Atlantic City in conjunction with the annual meeting of the New Jersey League of Municipalities.

Other sessions, all starting at 10 a.m., are scheduled as follows:

Nov. 9—Public Credit, Room 212, State Office Building, 1100 Raymond Boulevard, Newark.

Nov. 12—Fiscal Needs, Assembly Chamber, State House, Trenton.

Nov. 24—Service Levels, Assembly Chamber, Trenton.
Dec. 2—Revenue Resources, Assembly Chamber, Trenton.

Persons or representatives of organizations wishing to testify should write or call: New Jersey Tax Policy Committee, 134 West State Street, Trenton, New Jersey 08625; telephone (609) 292-5100.

FOUR MORE DELAWARE VALLEY PLANTS CITED BY STATE FOR POLLUTION

Four more industries in the Delaware Valley have been cited by the State for discharging polluting industrial wastes into the Delaware River's tributaries. They have until Dec. 21 to clean up.

Orders issued by Environmental Protection Commissioner Richard J. Sullivan instruct the four plants to build or upgrade disposal facilities approved by the State or otherwise provide for wastewater discharges in an acceptable manner.

The plants were named in a continuing crackdown on industrial polluters along the Delaware and follow the action of the department three weeks ago ordering four Camden County industries to comply with pollution abatement regulations by Dec. 21, 1970.

Earlier, action against Delaware polluters took in industries in Burlington City, Paulsboro and Riverside. Those orders were issued Aug. 21.

The four latest industries named are the Youngs Rubber Corp. of Lawrence Township, Anchor Thread Co. of Hamilton Township, Houdry Process and Chemical Co. of Paulsboro and Griffin Pipe Products Co. of Florence Township.

The companies were given until Dec. 21 to correct pollution conditions or face further State action. Youngs Rubber discharges into Assumpink Creek, Anchor Thread empties its wastes into Crosswicks Creek, Houdry Process and Chemical discharges into Clomwell Creek and the Griffin Pipe Company empties directly into the Delaware.

Griffin Pipe, a Florence foundry, was cited by the courts last week for violation of the Air Pollution Control Code and ordered to show why an injunction should not be granted restraining it from further violations.

The Water Pollution Control Bureau said the newest industries named were discharging inadequately treated wastes into sewers or drains that did not meet water quality standards.

All of the plants have been under surveillance for the past six months, during which samples of their effluents were frequently taken.

LEINER BRINGS CIVIL SERVICE COMMISSION TO FULL STRENGTH

Henry R. Leiner of Cherry Hill was sworn in Oct. 6 as a member of the New Jersey Civil Service Commission following his appointment by Governor William T. Cahill.

James A. Alloway, President of the Commission, welcomed him and noted that it marked the first time in three years there had been a full Commission complement of five working members.

Commissioner Leiner assumed the three-year unexpired term of Mrs. Thelma Parkinson Sharp, who recently resigned.

Born in New York City, Leiner, 54, was raised in Camden and was graduated from Camden Catholic High School. Since 1942 he has been associated with Curtis Publishing Company, where he is vice-president, director of book sales. He is also co-publisher for Curtis Books, their paperback line.

The new Commissioner is past-president of the nursery school board of the League to Aid Retarded Children, former committee member of the Camden Boy Scouts of America, past-president of the 11th Ward Civic Association, and president of the Camden County Park Commission.

He resides with his wife, Grace Loretta, and son at 157 Valley Run Road, Cherry Hill. He has three married daughters and eight granddaughters.

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