

December 18, 2017

PUBLIC COMMENT LETTER TO HHSC

Karen Ray, Chief Counsel
Health and Human Services Commission
Mail Code 1065
P.O. Box 13247
Austin, TX 78711

Re: Proposed Rules; Title 25, Texas Administrative Code, Chapter 138; Disposition
of Embryonic and Fetal Tissue Remains

Dear Ms. Ray:

On behalf of its more than 450 member hospitals and health systems, the Texas Hospital Association (“THA”), appreciates the opportunity to provide comments in regards to the above-referenced proposed rules, published in the Texas Register on November 17, 2017. THA and our member hospitals are committed to providing compassionate choices to parents and families after pregnancy losses. We value your time and work in developing these rules, and present the following:

25 TAC §138.2

§138.2(13) contains a range of broad terms in the definition section, such as “hospitals,” which require additional definition and specification. Under this subsection, does “hospitals” mean hospitals licensed under Texas Health and Safety Code Chapter 241 and operated by the state? Does “clinics” mean a clinic operating under a hospital’s license? We request clarification of these terms, as appropriate.

We also request clarification of the term “emergency medical services” in §138.2(13)(E), as this does not identify a facility. Does this intend to include a hospital emergency department, freestanding emergency care facilities, or ambulance or paramedic services?

25 TAC §138.5

We request clarification that the inclusion of “regardless of the period of gestation” in 25 TAC §138.5(a) does not supersede current law, such as the applicability of 25 TAC Chapter 181, and that this provision protects the right of parents to honor their child through any desired, appropriate treatment and final disposition method.

Additionally, does the term “facility” in 25 TAC §138.5(d) and (e) refer to the facility undertaking the final treatment and disposition of the remains, i.e. a funeral home rather than a health care facility? We request clarification of the term “facility” in these provisions.

25 TAC §138.7

We request clarification that this subsection’s requirements do not apply to inter- or intra-health care facility transportation, as health care facilities are incapable of meeting these requirements when transferring remains within and between health care facilities.

Would an additional provision indicating that this requirement refers to the final transportation of remains be appropriate? Would the modification of the header to “Storage, Handling, and Transport Requirements *for Final Disposition*” be appropriate to create the distinction that these requirements only apply to persons or entities licensed, permitted, or otherwise authorized by the Texas Funeral Services Commission or the Texas Commission on Environmental Quality?

Your attention to the foregoing is very much appreciated, and will ensure that these rules are properly applied, and to the correct parties. Again, we thank you for the opportunity to participate in the rulemaking process, for your time and attention to this matter, and look forward to working with you. Please feel free to contact me with any questions, comments, or if there is anything else THA can assist with.

Very Truly Yours,



Cesar J. Lopez
Associate General Counsel
(512) 465-1027
clopez@tha.org