

BILL ANALYSIS

C.S.H.B. 1515
By: Allen
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under Section 301.455 the Board of Nurse Examiners may temporarily suspend a nursing license without notice and hearing if the Board finds that licensee's continued practice constitutes a continuing and imminent threat to the public welfare. Currently, however, the licensee must be provided a probable cause hearing within 14 days of the date of suspension.

It has been the Board's experience that it is very difficult and costly to meet the due process time limits of the statute given the fact that the agency must prepare the case, make the referral to the State Office of Administrative Hearings (SOAH), schedule the hearing and give notice to the licensee. An extension of the deadlines in the statute would allow for proper investigation and evaluation of cases which require immediate action by the Board and provide sufficient time for scheduling and notice.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill proposes to amend Section 301.455(c) of the Texas Occupations Code relating to temporary license suspension of registered nurses to change the 14-day requirement to 30 days by which the probable cause hearing must be held. The extension seeks to effectively balance the cost of expedited hearing, the interests of public safety, and the interest of the affected licensee.

Additionally, the bill amends Section 301.455(c) to provide that the evidentiary hearing at SOAH will be *de novo*. This change in law clarifies the current practice during probable cause hearing and allows the administrative law judge to review all evidence relevant to the issue of continuing and imminent threat to the public welfare, rather than only that evidence presented at the emergency suspension hearing before the board. Lastly, the bill amends Occupations Code Section 301.455(d) and changes the deadline for holding a final hearing on the matter from the 61st day to the 91st day after the date of the temporary suspension.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1515 modifies the original by amending Occupations Code 301.455(d) to extend the deadline for final hearing before the State Office of Administrative Hearings from the 61st to the 91st day after the date of the temporary suspension.