

BILL ANALYSIS

H.B. 1155
By: Truitt
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Legislature created the Texas State Board of Examiners of Dietitians in 1983, to ensure that safe and quality dietetic services are provided to the citizens of Texas. The Board has three primary functions: license qualified individuals to use the term “licensed dietitian” in Texas; set standards relating to the practice of dietetics; and enforce the Licensed Dietitian Act, including investigating and resolving complaints. The Board is administratively attached to the Texas Department of State Health Services.

The Board is subject to the Sunset Act and will be abolished on September 1, 2005, unless continued by the Legislature. As a result of its review of the Board, the Sunset Advisory Commission recommended its continuation and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Dietitians in SECTION 10, SECTION 19, and SECTION 26 of this bill. In addition, under the general rulemaking authority already granted to the policymaking body, rules may be developed to implement other new provisions found in this bill.

ANALYSIS

H.B. 1155 amends the Occupations Code relating to the continuation and functions of the Texas State Board of Examiners of Dietitians. The bill also incorporates several standard across-the-board recommendations of the Sunset Commission.

Continuation of the Board

The bill continues the Texas State Board of Examiners of Dietitians until September 1, 2017.

Board Member Provisions

H.B. 1155 updates standard Sunset across-the-board language prohibiting Board members, high-level employees, and spouses from serving as an officer or employee of a related Texas trade association. The bill adds standard Sunset language authorizing the Governor to designate the Board's presiding officer. The bill updates standard Sunset language requiring members of the Board to complete training before assuming their duties, and requiring the Board to separate its policymaking duties from the agency's management functions. The bill also updates standard Sunset language specifying the grounds for removing a Board member.

The bill specifies that the Board may appoint committees consisting of Dietitian Board members, and requires the Board to appoint at least one public Board member to complaint review committees. The bill also removes Board member entitlement to the compensatory per diem, but clarifies that members are entitled to reimbursement for travel expenses to attend Board meetings and to attend training programs.

Licensing Process

The bill applies standard guidelines on the use of criminal convictions in licensing dietitians, and requires the Board to develop and administer a jurisprudence exam that applicants must pass to

become licensed. H.B. 1155 also bases the delinquent license renewal fees on the Board's normally required renewal fee, rather than the examination fee.

Enforcement Authority

The bill authorizes the Board to refuse to renew a license generally as a disciplinary action and specifically for persons who fail to pay an administrative penalty. H.B. 1155 authorizes the Board to order refunds as part of the settlement conference process, and prohibits the amount of a refund from exceeding the amount the consumer paid to the licensed dietitian. The bill authorizes the Board to seek an injunction in district court against unlicensed persons referring to themselves as licensed dietitians. The bill further authorizes the Board to issue cease-and-desist orders to stop unlicensed activity, after providing the unlicensed person with notice and opportunity for a hearing. H.B. 1155 requires the Board to develop an administrative penalty matrix in rule that ensures that penalty amounts appropriately match violations. H.B. 1155 updates statutory language requiring the Department to maintain information on all complaints and notify the parties about policies for and status of complaints.

H.B. 1155 changes the length that license is valid from one year to two years, and that the license may be renewed on a biennially basis. For licenses expired for 90 days the renewal fee would be equal to 1 **3** times the normal renewal fee, while for licenses expired for more than 90 days the fee would be equal to 1 **2** times the normal renewal fee.

Administrative Process

H.B. 1155 adds standard Sunset across-the-board language requiring the Board to make effective use of technology in its delivery of services and provision of information to the public. The bill also requires the Board to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

EFFECTIVE DATE

September 1, 2005.