

BILL ANALYSIS

C.S.H.B. 1413
By: Truitt
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Legislature created the Texas State Board of Examiners of Marriage and Family Therapists (Board) in 1991 to ensure that safe and quality marriage and family therapy services are provided to the citizens of Texas. To accomplish its mission, the Board licenses qualified individuals; sets standards relating to the practice of marriage and family therapy; and ensures compliance with the Act and Board rules by investigating complaints and taking disciplinary action when necessary.

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 Marriage and Family Therapist Board, the Sunset Advisory Commission recommended continuation of the board and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Examiners of Marriage and Family Therapists in SECTION 10 and SECTION 16 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

Continuation of Marriage and Family Therapist Regulation

The substitute continues the regulation of marriage and family therapists until September 1, 2017.

Board and Committee Appointments

The substitute clarifies the Board's authority to appoint committees, but requires committees to consist of only Board members. The bill also requires Board complaint committees to have at least one public member and removes authority for Board members to receive compensatory per diem payments.

Conflict of Interest and Board Member Provisions

The substitute updates standard Sunset across-the-board language prohibiting Board members and high-level employees, and spouses from serving as an officer or employee of a related Texas trade association. The bill adds that a person may not be a member or the Board or serve as general counsel to the department if they are required to register as a lobbyist under the Government Code, because their activities for compensation are on behalf of a profession related to the operation of the board. The bill updates standard Sunset language that a person eligible for appointment as a public member of the board may not have a spouse that works in the mental health field. The bill adds that a person may not be a member or the Board or serve as requiring Board members to complete training before assuming their duties, and 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.

Administrative Process

The substitute 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.

Licensing Procedures

The substitute states that the Board must address convictions in the manner defined in the chapter and also list the specific offenses for which a conviction would constitute grounds for the board to take action under the revocation, suspension or denial of license section of the Occupations Code. The bill requires delinquent, out-of-state practitioner license renewal fees to be based on the renewal fee instead of the examination fee. For licenses expired for 90 days or less the renewal fee would be equal to 1¼ times the normal renewal fee, while for licenses expired for more than 90 days the fee would be equal to 1½ times the normal renewal fee, instead of the examination fee. The bill removes the Board's authority to use oral or field examinations to determine eligibility for licensure, and requires applicants to pass, in addition to the license examination, a jurisprudence exam on the Marriage and Family Therapist Act, rules, and other applicable Texas laws as a condition of licensure. The jurisprudence examination is to be given at least twice each calendar year, with licenses issued under this chapter now being subject to biennial instead of annual renewal.

Enforcement and Complaints

The substitute increases the maximum administrative penalty from \$1,000 to \$5,000 per violation, per day, and requires the Board to adopt a penalty matrix associating fine amounts with the severity of violations. The bill authorizes the Board to refuse to renew a license as a disciplinary action and for persons who fail to pay an administrative penalty. The bill also authorizes the Board to order a license holder to pay a refund agreed upon in an informal settlement conference, that is limited to the amount the consumer paid to the marriage and family therapist for services, and to issue cease-and-desist orders to stop unlicensed activity, after providing the unlicensed person with notice and opportunity for a hearing. The bill updates standard Sunset across-the-board language requiring the Board to maintain information on written complaints and notify parties about policies for and status of complaints. The bill also adds standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute limits the eligibility of appointments of public members. The substitute renumbers the sections accordingly.