

Texas State Board of Social Worker Examiners

Final Action: *The Council for Social Work Certification was replaced with the Texas State Board of Social Worker Examiners and the new board was continued for a 12-year period.*

SB 1426 by Parker

Analysis of Major Provisions in the Final Bill

Senate Bill 1060 by Senator Parker, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of social workers. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate social workers be merged with the boards that regulate other mental health professionals including marriage and family therapists, professional counselors and psychologists. The legislature chose not to merge the boards but rather to continue them as separate boards. Separate bills were introduced to continue each of the four boards. Senate Bill 1426, was enacted to continue the regulation of social workers by replacing the council with a new separate board for the usual 12-year period. The program administration will be transferred from the Texas Department of Human Services to the Texas Department of Health. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This approach makes the board and its chair more directly accountable to the governor.

Abolish the existing advisory committee and create a new governor-appointed board with independent rulemaking authority. The legislature abolished the advisory council that had responsibility for regulation and established a new board to administer the program. Under previous law, the program was administered through the Texas Department of Human Services (DHS) and the DHS board was required to appoint an advisory council to advise it in the operation of the program. The advisory council did not have final authority over policy making for the program. This structure did not provide autonomy for the program and was not the standard approach used with other similar regulatory programs. Under the bill as finally adopted, the regulation of social workers is directed by a governor-appointed board that has final rule making and enforcement authority.

Transfer the program administration from the Texas Department of Human Services to the Texas Department of Health. The legislature transferred the regulatory program from the Texas Department of Human Services to the Texas Department of Health. The social work regulatory program was one of two health occupation regulatory programs at DHS. In contrast, the Texas Department of Health regulates many health occupations, including

two other similar mental health professions. Transferring the program to the TDH would allow a sharing of administrative duties in similar programs at the TDH.

Transfer the hearing function from the Texas Department of Human Services hearings division to the State Office of Administrative Hearings. The legislature adopted a provision related to the program's hearings function. The bill, as finally adopted, transferred the hearings function from the hearings division of the Texas Department of Human Services to the State Office of Administrative Hearings (SOAH). The SOAH is responsible for conducting contested case hearings for most of the boards that regulate health care professionals.

Change the name of the licenses issued to reflect that the profession is "licensed" instead of "certified". The legislature adopted a provision that changes the way social workers are referred to under the law. Under previous law, a state licensed social worker was called a "certified social worker." The professional organization had concerns that the term certified reflected a lower standard of regulation although the type of regulation was the same as other regulatory programs whose licensees were termed "licensed." Under the bill as finally adopted, all levels of social worker licensees are referred to as "licensed."

Increase the minimum educational requirement for the social work associate from a high school diploma to a minimum of an associate or bachelor degree. The legislature adopted a provision that eliminated the ability of a person with a high school degree to qualify as a social work associate. Under previous law, social workers who had a substantial amount of experience could qualify as a social work associate with a high school diploma after passing a board-approved examination. The professional organization had concerns that these licensees did not have the academic background in social work required to function effectively as a social worker. The bill as finally passed increases the minimum level of education required for social work associates to an associates degree or bachelors degree in a human services field. Social work associates that were certified in good standing before the requirement was increased are exempt from the new requirement.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If the training requirements cannot be met through another state agency, the board is required to develop the training after consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to publish a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be

dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission to establish uniform statutory authority for mandatory continuing education requirements. While the board had the broad authority to establish such requirements, this change gives the board standard guidelines to use and makes it a requirement. The board must establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a standard procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder after the board verifies the applicant's credentials and the applicant meets any other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require the board to set fees to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature adopted standard language to authorize the board to set fees as necessary to cover the costs of regulation. While the board had broad fee authority, this change applies standard language requiring that fees recover the cost of administering the regulatory program. The board is prohibited from setting a fee at an amount less than the level as of September 1, 1993 to prevent revenue loss.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1426 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate psychologists, professional counselors, social workers and marriage and family therapists into a single board to regulate all four professions. The Sunset Commission recommended merging the policy boards that regulate the four mental health professions including social workers. The commission determined that these mental health professions were closely related and performed many of the same types of activities. In addition, members of the four professions often work together closely and many hold licenses under more than one board. Under the current structure each of the four boards sets the requirements separately for regulation including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the mental health professional organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Social Worker Examiners
SB 1426 by Parker

Bill Reference	Bill Provision
Page 1, Line 7	Adds a title to the Act.
Page 1, Line 10 Page 3, Line 20 Page 5, Line 22 thru Page 7, Line 14 Page 8, Line 23 thru Page 10, Line 2 Page 12, Line 20 thru Page 14, Line 5 Page 15, Line 6 thru Page 16, Line 15 Page 20, Line 10 Page 45, Line 20 Page 56, Line 7 thru Page 58, Line 16 Page 61, Line 2	Creates a new board administratively attached to the Texas Dept. of Health. Board is governor appointed with senate confirmation and has independent rulemaking authority. The board's sunset date is set for the usual 12-year period.
Page 1, Line 12 Page 58, Line 17 thru Page 61, Line 3 and throughout the bill.	Changes the titles of the licenses issued by the board from "certified" to "licensed."
Page 1, Line 16 thru Page 3, Line 19	Changes the definitions to incorporate national model act language.
Page 3, Line 9 Page 27, Line 14 Page 28, Line 15	Requires educational programs to be approved by the Council on Social Work Education.
Page 4, Line 1 thru Page 5, Line 11	Expands the exemptions from the Act to include all related state licensed health care practitioners, volunteers, clergy, students, and non-residents practicing in the state temporarily.
Page 7, Line 15 thru Page 8, Line 22 Page 11, Line 23 thru Page 12, Line 19	Defines grounds for removing a board member and requires the director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 9, Line 4	Requires the governor to designate the board chair.

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Bill Reference	Bill Provision
Page 10, Line 5	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 10, Line 22	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 11, Line 17	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 14, Line 9	Establishes a special account for the social worker fund in the.
Page 14, Line 20 thru Page 15, Line 3	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 16, Line 18 thru Page 17, Line 13	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 17, Line 5	Requires listing of a 1-800 telephone number for complaint information if one is established in another bill.
Page 17, Line 16 thru Page 18, Line 1	Prohibits rules restricting competitive bidding and advertising. (ATB)
Page 18, Line 8	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 18, Line 12	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 18, Line 17	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

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Bill Reference	Bill Provision
Page 18, Line 22 thru Page 20, Line 6	Requires compliance with board member training requirements if established under another bill. Requires the board to establish training if the requirements cannot be met through another agency and specifies the content of the training.
Page 20, Line 19 thru Page 21, Line 23	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 22, Line 1 thru Page 25, Line 23 Page 26, Line 17 thru Page 27, Line 14 Page 31, Line 16 Page 32, Line 14 thru Page 34, Line 2 Page 41, Line 3 thru Page 42, Line 4 Page 43, Line 2 thru Page 45, Line 9 Page 48, Line 3	Minor technical corrections to language to reflect new license titles and new board authority.
Page 26, Line 1	Requires that all licensing examinations be validated.
Page 26, Line 8	Authorizes the board to limit the number of examination retakes.
Page 27, Line 8 thru Page 29, Line 7 Page 30, Line 19 thru Page 31, Line 13 Page 45, Line 12	Eliminates outdated language related to initial licensing period.
Page 29, Line 17 thru Page 30, Line 2	Increases the minimum educational requirement for a social work associate.
Page 30, Line 13	Authorizes the board to issue temporary licenses.
Page 32, Line 5 Page 34, Line 5 Page 34, Line 24 thru Page 35 Line 10	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)

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Bill Reference	Bill Provision
Page 34, Line 21 Page 61, Line 4	Transfers board hearings to the State Office of Administrative Hearings.
Page 35, Line 13 thru Page 39, Line 2	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 35, Line 18 thru Page 36, Line 2	Requires the agency to maintain files on complaints. (ATB)
Page 35, Line 19 Page 36, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 39, Line 5 thru Page 40, Line 24	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 41, Line 2 thru Page 42, Line 23	Authorizes the board to issue specialty designations for clinical social work.
Page 46, Line 4 thru Page 47, Line 21	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 48, Line 9 thru Page 49, Line 3	Requires mandatory continuing education.
Page 49, Line 4 thru Page 56, Line 6	Amends the Insurance Code provisions on insurance payments to licensee for services to reflect the new license titles.
Page 61, Line 12	Sets September 1, 1993 as the effective date of the Act.
Page 61, Line 13	Emergency clause.