

Title 22. EXAMINING BOARDS
Part 31. TEXAS STATE BOARD OF EXAMINERS OF DIETITIANS
Chapter 711. Dietitians.
Subchapter A. Licensed Dietitians
Amendment §711.12

Proposed Preamble

The Texas State Board of Examiners of Dietitians (board) proposes an amendment to §711.12, concerning the licensing and regulation of dietitians.

BACKGROUND AND PURPOSE

The proposed amendments implement Senate Bill (SB) 1733, 82nd Legislature, 2011, Regular Session, and SB 162 and House Bill (HB) 2254 of the 83rd Legislature, Regular Session, 2013, which amended Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses), as well as implementing other provisions of this chapter that are not presently addressed in existing rule. The amendments relate to the occupational licensing of spouses of members of the military, the eligibility requirements for certain occupational licenses issued to applicants with military experience, and apprenticeship requirements for occupational licenses issued to applicants with military experience.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §711.12(a) removes the language concerning a damaged, or destroyed license certificate or identification card and adds this language to subsection (b) for clarity. New subsection (c) adds new language to define military service member, military spouse, and military veteran, and to describe application and eligibility procedures and requirements applicable to those individuals.

FISCAL NOTE

Bobbe Alexander, Executive Director, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Alexander has also determined that there will be no adverse economic effect to small businesses or micro-businesses. This was determined by interpretation of the rule that these entities will not be required to alter their business practices to comply with the section as proposed.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

REGULATORY ANALYSIS

The board has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposal does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC BENEFIT

Ms. Alexander has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of implementing and administering the section is that the statutory directives will be carried out and more flexible standards for members of the military, their spouses, and veterans could potentially increase the availability to the public of licensed dietitians in Texas, and promote public health, safety, and welfare.

PUBLIC COMMENT

Comments on the proposal may be submitted to Bobbe Alexander, Executive Director, State Board of Examiners of Dietitians, Department of State Health Services, Mail Code 1982, and P. O. Box 149347, Austin, Texas 78714-9347 or by email to dietitian@dshs.state.tx.us. When emailing comments to the board, please indicate “Comments on Proposed Rules” in the email subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The proposed amendment is authorized by Occupations Code, §701.152, which authorizes the board to adopt rules consistent with Chapter 701, and by Texas Occupations Code, §55.004, §55.005, and §55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which authorize rulemaking regarding certain licensing provisions for military service members, military veterans, and military spouses.

The proposed amendment affects Occupations Code, Chapter 701, and Texas Occupations Code, Chapter 55.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§711.12. Licensing.

(a) Issuance of licenses.

[**(1)**] The board will send each applicant whose application has been approved and who has passed the examination (if applicable) a license certificate and identification card containing a license number.

[(2) The board shall replace a lost, damaged, or destroyed license certificate or identification card upon a written request from the licensee and payment of the license replacement fee. Requests shall include a statement detailing the loss or destruction of the licensee's original license or identification card or be accompanied by the damaged certificate or card.]

(b) License certificates.

(1) - (6) (No change.)

(7) The board shall replace a lost, damaged, or destroyed license certificate or identification card upon a written request from the licensee and payment of the license replacement fee. Requests shall include a statement detailing the loss or destruction of the licensee's original license or identification card or be accompanied by the damaged certificate or card.

(c) Licensing of Military Service Members, Military Veterans, and Military Spouses.

(1) This section sets out licensing procedures for military service members, military veterans, and military spouses required under Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). For purposes of this section:

(A) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(B) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(C) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(2) An applicant shall provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation

includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(3) Upon request, an applicant shall provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(4) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(5) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing or internship requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act and this chapter.

(6) An applicant who is a military spouse who holds a current license issued by another jurisdiction that has substantially equivalent licensing requirements shall complete and submit an application form and fee. The board shall issue a license to a qualified applicant who holds such a license as soon as practicable and the renewal of the license shall be in accordance with paragraph (9) of this subsection.

(7) In accordance with Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(8) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(9) If the board issues an initial license to an applicant who is a military spouse in accordance with paragraph (6) of this subsection, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license shall not be renewed, shall be allowed to expire, and shall become ineffective

if the applicant does not provide proof of completion at the time of the first application for licensure renewal.