

AN ACT

relating to continuation and functions of the Texas State Board of Social Worker Examiners; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 505.002, Occupations Code, is amended by adding Subdivision (2-a) and amending Subdivision (4) to read as follows:

(2-a) "Commissioner" means the commissioner of state health services.

(4) "Department" means the [~~Texas~~] Department of State Health Services.

SECTION 2. Subsection (a), Section 505.003, Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) an activity conducted or a service performed by a person who is licensed, certified, or registered in a profession other than social work, including a physician, attorney, registered nurse, licensed vocational nurse, psychologist, occupational therapist, licensed marriage and family therapist, licensed chemical dependency counselor, or licensed professional counselor, if:

(A) the activity or service is conducted or performed within the scope of the person's license, certificate, or registration;

1 (B) the person does not use a title listed in  
2 Section 505.351; and

3 (C) the person does not:  
4 (i) represent the service as social work;  
5 (ii) represent that the person is a social  
6 worker; or

7 (iii) use a title that implies that the  
8 person is licensed in social work;

9 (2) a service performed by a person as a volunteer or  
10 staff member if the person does not:

11 (A) represent the service as social work;  
12 (B) represent the person as a social worker; or  
13 (C) use a title that implies that the person is  
14 licensed in social work;

15 (3) an activity conducted by a social work student,  
16 intern, or trainee in connection with an institution of higher  
17 education accredited by the Council on Social Work Education; or

18 ~~(4) [a service performed by a person who does not  
19 reside in this state if:~~

20 ~~[(A) the service is performed for fewer than 30  
21 days in a calendar year; and~~

22 ~~[(B) the person is authorized to perform the  
23 service under the laws of the state or country in which the person  
24 resides; or~~

25 ~~[(5)]~~ an activity conducted or a service performed by  
26 a pastoral care counselor who is acting within the person's  
27 ministerial capabilities and who does not use a title that implies

1 that the counselor is licensed in social work, including:

2 (A) a Christian Science practitioner who is  
3 recognized by the Church of Christ Scientist as registered and  
4 published in the Christian Science Journal; and

5 (B) any other recognized religious practitioner.

6 SECTION 3. Section 505.005, Occupations Code, is amended to  
7 read as follows:

8 Sec. 505.005. APPLICATION OF SUNSET ACT. The Texas State  
9 Board of Social Worker Examiners is subject to Chapter 325,  
10 Government Code (Texas Sunset Act). Unless continued in existence  
11 as provided by that chapter, the board is abolished and Section  
12 505.101 expires September 1, 2017 [~~2005~~].

13 SECTION 4. Subsection (b), Section 505.101, Occupations  
14 Code, is amended to read as follows:

15 (b) Appointments to the board shall be made without regard  
16 to the race, color, disability, sex, religion, age, or national  
17 origin of the appointee [~~The governor shall make appointments to~~  
18 ~~the board after considering representation on the board by race,~~  
19 ~~sex, age, and geographical area~~].

20 SECTION 5. Section 505.102, Occupations Code, is amended to  
21 read as follows:

22 Sec. 505.102. PUBLIC MEMBERSHIP ELIGIBILITY. (a) A public  
23 member of the board may not:

24 (1) be licensed under this chapter; or

25 (2) have an interest in the practice of social work  
26 other than as a consumer.

27 (b) A person is not eligible for appointment as a public

1 member of the board if:

2 (1) the person [~~or the person's spouse: (1)~~] is  
3 registered, certified, or licensed by an occupational regulatory  
4 agency in the field of health care;

5 (2) the person's spouse is registered, certified, or  
6 licensed by an occupational regulatory agency in the field of  
7 mental health; or

8 (3) the person or the person's spouse:

9 (A) is employed by or participates in the  
10 management of a business entity or other organization regulated by  
11 or receiving funds from the board or department;

12 (B) [~~(3)~~] owns or controls, directly or  
13 indirectly, more than a 10 percent interest in a business entity or  
14 other organization regulated by or receiving funds from the board  
15 or department; or

16 (C) [~~(4)~~] uses or receives a substantial amount  
17 of tangible goods, services, or funds from the board or department,  
18 other than compensation or reimbursement authorized by law for  
19 board membership, attendance, or expenses.

20 SECTION 6. Section 505.103, Occupations Code, is amended to  
21 read as follows:

22 Sec. 505.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

23 (a) In this section, "Texas trade association" means a  
24 [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide  
25 association of business or professional competitors in this state  
26 designed to assist its members and its industry or profession in  
27 dealing with mutual business or professional problems and in

1 promoting their common interest.

2 (b) A person [~~An officer, employee, or paid consultant of a~~  
3 ~~Texas trade association in the field of health care~~] may not be a  
4 member of the board and may not be an employee of the department  
5 employed in a "bona fide executive, administrative, or professional  
6 capacity," as that phrase is used for purposes of establishing an  
7 exemption to the overtime provisions of the federal Fair Labor  
8 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

9 (1) the person is an officer, employee, or paid  
10 consultant of a Texas trade association in the field of health care;  
11 or

12 (2) the person's spouse is an officer, manager, or paid  
13 consultant of a Texas trade association in the field of mental  
14 health [~~who is exempt from the state's position classification plan~~  
15 ~~or is compensated at or above the amount prescribed by the General~~  
16 ~~Appropriations Act for step 1, salary group A17, of the position~~  
17 ~~classification salary schedule].~~

18 (c) [~~A person who is the spouse of an officer, manager, or~~  
19 ~~paid consultant of a Texas trade association in the field of health~~  
20 ~~care may not be a board member and may not be an employee of the~~  
21 ~~department who is exempt from the state's position classification~~  
22 ~~plan or is compensated at or above the amount prescribed by the~~  
23 ~~General Appropriations Act for step 1, salary group A17, of the~~  
24 ~~position classification salary schedule.~~

25 [~~(d)~~] A person may not be [~~serve as~~] a member of the board or  
26 act [~~serve~~] as general counsel to the board or the department if the  
27 person is required to register as a lobbyist under Chapter 305,

1 Government Code, because of the person's activities for  
2 compensation on behalf of a profession related to the operation of  
3 the board.

4 SECTION 7. Subsections (a) and (c), Section 505.105,  
5 Occupations Code, are amended to read as follows:

6 (a) It is a ground for removal from the board that a member:

7 (1) does not have at the time of taking office  
8 [~~appointment~~] the qualifications required by Sections 505.101 and  
9 505.102(a);

10 (2) does not maintain during service on the board the  
11 qualifications required by Sections 505.101 and 505.102(a);

12 (3) is ineligible for membership under [~~violates a~~  
13 ~~prohibition established by~~] Section 505.103;

14 (4) cannot, because of illness or disability,  
15 discharge the member's duties for a substantial part of the member's  
16 term; or

17 (5) is absent from more than half of the regularly  
18 scheduled board meetings that the member is eligible to attend  
19 during a calendar year without an excuse approved by a [~~, unless the~~  
20 ~~absence is excused by~~] majority vote of the board.

21 (c) If the executive director has knowledge that a potential  
22 ground for removal exists, the executive director shall notify the  
23 presiding officer of the board of the potential ground. The  
24 presiding officer shall then notify the governor and the attorney  
25 general that a potential ground for removal exists. If the  
26 potential ground for removal involves the presiding officer, the  
27 executive director shall notify the next highest ranking officer of

1 the board, who shall then notify the governor and attorney general  
2 that a potential ground for removal exists.

3 SECTION 8. Section 505.109, Occupations Code, is amended to  
4 read as follows:

5 Sec. 505.109. TRAINING. (a) A person who is appointed to  
6 and qualifies for office as a member of the board may not vote,  
7 deliberate, or be counted as a member in attendance at a meeting of  
8 the board until the person completes a training program that  
9 complies with [~~Before a board member may assume the member's~~  
10 ~~duties, the member must complete at least one course of a training~~  
11 ~~program established by the board under~~] this section.

12 (b) The training program must provide the person with  
13 information [~~to a participant~~] regarding:

14 (1) the legislation that created the board and the  
15 board's programs, functions, rules, and budget [~~this chapter~~];

16 (2) [~~the programs operated by the board,~~

17 [~~(3) the role and functions of the board,~~

18 [~~(4) the rules of the board, with an emphasis on the~~  
19 ~~rules that relate to disciplinary and investigatory authority,~~

20 [~~(5) the current budget for the board,~~

21 [~~(6)~~] the results of the most recent formal audit of  
22 the board;

23 (3) [~~(7)~~] the requirements of laws relating to open  
24 meetings, public information, administrative procedure, and  
25 conflicts of interest [~~Chapters 551, 552, and 2001, Government~~  
26 ~~Code~~];

27 [~~(8) the requirements of the conflict of interest laws~~

1 ~~and other laws relating to public officials,~~] and

2 (4) ~~[(9)]~~ any applicable ethics policies adopted by  
3 the board or the Texas Ethics Commission.

4 (c) A person appointed to the board is entitled to  
5 reimbursement, as provided by the General Appropriations Act, for  
6 the travel expenses incurred in attending the training program  
7 regardless of whether the attendance at the program occurs before  
8 or after the person qualifies for office ~~[In developing the~~  
9 ~~training program, the board shall consult with the governor, the~~  
10 ~~attorney general, and the Texas Ethics Commission].~~

11 ~~[(d) If another state agency or entity is authorized to~~  
12 ~~establish the training requirements for board members, the board~~  
13 ~~shall allow that training instead of developing its own program.]~~

14 SECTION 9. Subchapter B, Chapter 505, Occupations Code, is  
15 amended by adding Section 505.110 to read as follows:

16 Sec. 505.110. BOARD COMMITTEES. (a) The board may appoint  
17 committees to assist the board with its functions under this  
18 chapter.

19 (b) Only a member of the board may serve as a member of a  
20 board committee.

21 SECTION 10. Subsection (a), Section 505.151, Occupations  
22 Code, is amended to read as follows:

23 (a) The commissioner ~~[of public health]~~ shall designate an  
24 employee of the department to serve as executive director of the  
25 board. The executive director serves at the will of the board.

26 SECTION 11. Subchapter C, Chapter 505, Occupations Code, is  
27 amended by adding Section 505.155 to read as follows:



1       Sec. 505.155. DIVISION OF RESPONSIBILITIES. The board  
2 shall develop and implement policies that clearly separate the  
3 policy-making responsibilities of the board and the management  
4 responsibilities of the executive director and staff of the  
5 department.

6       SECTION 12. Section 505.203, Occupations Code, is amended  
7 by adding Subsection (c) to read as follows:

8       (c) Unless the board determines that the fees would not  
9 cover the costs associated with administering the renewal of  
10 licenses and orders of recognition of specialty under this chapter,  
11 the board shall set:

12           (1) the renewal fee for a license or order of  
13 recognition of specialty expired for 90 days or less in an amount  
14 that is 1-1/4 times the amount of the renewal fee for an unexpired  
15 license or order; and

16           (2) the renewal fee for a license or order of  
17 recognition of specialty expired for more than 90 days but less than  
18 one year in an amount that is 1-1/2 times the amount of the renewal  
19 fee for an unexpired license or order.

20       SECTION 13. Section 505.207, Occupations Code, is amended  
21 to read as follows:

22       Sec. 505.207. ANNUAL REPORT REGARDING LICENSING. Not later  
23 than November 1 of each year, the commissioner [~~of public health~~]  
24 shall file with the governor and the presiding officer of each house  
25 of the legislature a written report regarding the licensing of  
26 social workers by the department during the preceding fiscal year.

27       SECTION 14. Subchapter D, Chapter 505, Occupations Code, is

1 amended by adding Sections 505.209, 505.210, and 505.211 to read as  
2 follows:

3 Sec. 505.209. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

4 (a) The board shall adopt rules necessary to comply with Chapter  
5 53.

6 (b) In its rules under this section, the board shall list  
7 the specific offenses for which a conviction would constitute  
8 grounds for the board to take action under Section 53.021.

9 Sec. 505.210. USE OF TECHNOLOGY. The board shall implement  
10 a policy requiring the board to use appropriate technological  
11 solutions to improve the board's ability to perform its functions.  
12 The policy must ensure that the public is able to interact with the  
13 board on the Internet.

14 Sec. 505.211. NEGOTIATED RULEMAKING AND ALTERNATIVE  
15 DISPUTE RESOLUTION POLICY. (a) The board shall develop and  
16 implement a policy to encourage the use of:

17 (1) negotiated rulemaking procedures under Chapter  
18 2008, Government Code, for the adoption of board rules; and

19 (2) appropriate alternative dispute resolution  
20 procedures under Chapter 2009, Government Code, to assist in the  
21 resolution of internal and external disputes under the board's  
22 jurisdiction.

23 (b) The board's procedures relating to alternative dispute  
24 resolution must conform, to the extent possible, to any model  
25 guidelines issued by the State Office of Administrative Hearings  
26 for the use of alternative dispute resolution by state agencies.

27 (c) The department shall designate a trained person to:

1           (1) coordinate the implementation of the policy  
2 adopted under Subsection (a);

3           (2) serve as a resource for any training needed to  
4 implement the procedures for negotiated rulemaking or alternative  
5 dispute resolution; and

6           (3) collect data concerning the effectiveness of those  
7 procedures, as implemented by the board.

8           SECTION 15. Section 505.253, Occupations Code, is amended  
9 to read as follows:

10           Sec. 505.253. RECORDS OF COMPLAINTS. (a) The board shall  
11 maintain a system to promptly and efficiently act on complaints  
12 filed with the board. The board shall maintain:

13           (1) information about the parties to the complaint and  
14 the subject matter of the complaint;

15           (2) a summary of the results of the review or  
16 investigation of the complaint; and

17           (3) information about the disposition of the complaint  
18 ~~[keep an information file about each complaint filed with the~~  
19 ~~department and referred to the board. The information file shall be~~  
20 ~~kept current and must contain a record for each complaint of:~~

21           ~~[(1) each person contacted in relation to the~~  
22 ~~complaint;~~

23           ~~[(2) a summary of findings made at each step of the~~  
24 ~~complaint process;~~

25           ~~[(3) an explanation of the legal basis and reason for a~~  
26 ~~complaint that is dismissed;~~

27           ~~[(4) the schedule established under Section~~

1 ~~505.254(b)(2) for the complaint and a notation of any change in the~~  
2 ~~schedule; and~~

3 ~~[(5) other relevant information].~~

4 (b) The board shall make information available describing  
5 its procedures for complaint investigation and resolution.

6 (c) The board shall periodically notify the parties of the  
7 status of the complaint until final disposition of the complaint  
8 ~~[If a written complaint is referred to the board that the board has~~  
9 ~~the authority to resolve, the board, at least quarterly and until~~  
10 ~~final disposition of the complaint, shall notify the parties to the~~  
11 ~~complaint of the status of the complaint unless the notice would~~  
12 ~~jeopardize an undercover investigation].~~

13 SECTION 16. Subsection (a), Section 505.2545, Occupations  
14 Code, is amended to read as follows:

15 (a) In an investigation of a complaint filed with the  
16 department and referred to the board, the board may request that the  
17 commissioner ~~[of public health]~~ or the commissioner's designee  
18 approve the issuance of a subpoena. If the request is approved, the  
19 board may issue a subpoena to compel the attendance of a relevant  
20 witness or the production, for inspection or copying, of relevant  
21 evidence that is in this state.

22 SECTION 17. Subchapter E, Chapter 505, Occupations Code, is  
23 amended by adding Section 505.2547 to read as follows:

24 Sec. 505.2547. COMPLAINT COMMITTEE. The board shall  
25 appoint at least one public member of the board to any board  
26 committee established to review a complaint filed with the board or  
27 review an enforcement action against a license holder related to a

1 complaint filed with the board.

2 SECTION 18. Subsection (a), Section 505.353, Occupations  
3 Code, is amended to read as follows:

4 (a) To be eligible for a license under this chapter, an  
5 applicant must:

6 (1) be at least 18 years of age;

7 (2) be worthy of the public trust and confidence;

8 (3) satisfy the education and experience requirements  
9 under this section; and

10 (4) pass the licensing examination conducted by the  
11 board under Section 505.354 and the jurisprudence examination  
12 conducted by the board under Section 505.3545.

13 SECTION 19. Subchapter G, Chapter 505, Occupations Code, is  
14 amended by adding Section 505.3545 to read as follows:

15 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The board  
16 shall develop and administer at least twice each calendar year a  
17 jurisprudence examination to determine an applicant's knowledge of  
18 this chapter, board rules, and any other applicable laws of this  
19 state affecting the applicant's social work practice.

20 (b) The board shall adopt rules to implement this section,  
21 including rules related to the development and administration of  
22 the examination, examination fees, guidelines for reexamination,  
23 grading the examination, and providing notice of examination  
24 results.

25 SECTION 20. Section 505.357, Occupations Code, is amended  
26 to read as follows:

27 Sec. 505.357. TEMPORARY LICENSE. (a) The board shall

1 issue a temporary license to an applicant who:

2 (1) has not taken the licensing examination under  
3 Section 505.354 or the jurisprudence examination under Section  
4 505.3545; and

5 (2) satisfies the requirements for obtaining a license  
6 under this chapter other than passing the licensing and  
7 jurisprudence examinations [~~examination~~].

8 (b) A temporary license is valid until the results of the  
9 first appropriate licensing and jurisprudence examinations  
10 [~~written examination~~] given after the date the license is issued  
11 are available.

12 SECTION 21. Subchapter G, Chapter 505, Occupations Code, is  
13 amended by adding Section 505.3575 to read as follows:

14 Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE  
15 APPLICANTS. (a) Notwithstanding any other licensing requirement  
16 of this subchapter:

17 (1) the board may not require an applicant who is  
18 licensed in good standing in another state to pass a licensing  
19 examination conducted by the board under Section 505.354 if an  
20 applicant with substantially equivalent experience who resides in  
21 this state would not be required to take the licensing examination;  
22 and

23 (2) the board may issue a license to an applicant who  
24 is currently licensed in another state to independently practice  
25 social work if:

26 (A) after an assessment, the board determines  
27 that the applicant:

1                   (i) demonstrates sufficient experience and  
2 competence;

3                   (ii) has passed the jurisprudence  
4 examination conducted by the board under Section 505.3545; and

5                   (iii) at the time of the application, is in  
6 good standing with the regulatory agency of the state in which the  
7 applicant is licensed; and

8                   (B) the applicant presents to the board  
9 credentials that the applicant obtained from a national  
10 accreditation organization and the board determines that the  
11 requirements to obtain the credentials are sufficient to minimize  
12 any risk to public safety.

13           (b) When assessing the experience and competence of an  
14 applicant for the purposes of this section, the board may take into  
15 consideration any supervision received by the applicant in another  
16 state or jurisdiction if the board determines that the supervision  
17 would be taken into consideration for the purpose of licensing or  
18 certification in the state or jurisdiction in which the applicant  
19 received the supervision.

20           SECTION 22. Subsections (a) and (b), Section 505.359,  
21 Occupations Code, are amended to read as follows:

22           (a) The board shall issue an appropriate license to a  
23 provisional license holder:

24                   (1) who passes the licensing examination under Section  
25 505.354 and the jurisprudence examination under Section 505.3545;

26                   (2) for whom the board verifies that the person  
27 satisfies the academic and experience requirements under Section

1 505.353; and

2 (3) who satisfies any other license requirements under  
3 this chapter.

4 (b) The board shall complete the processing of a provisional  
5 license holder's application for a license not later than the 180th  
6 day after the date the provisional license is issued or the date  
7 licenses are issued after successful completion of the next  
8 licensing and jurisprudence examinations ~~[examination]~~, whichever  
9 date is later.

10 SECTION 23. Subsections (a) and (c), Section 505.402,  
11 Occupations Code, are amended to read as follows:

12 (a) A person may renew an unexpired license or order of  
13 recognition of specialty by paying the appropriate ~~[required]~~  
14 renewal fee required by the board to the department before the  
15 expiration date of the license or order.

16 (c) A person whose license or order of recognition of  
17 specialty has been expired for ~~[90 days or]~~ less than one year may  
18 renew the license or order by paying to the department the  
19 appropriate ~~[required]~~ renewal fee required by the board ~~[and a fee~~  
20 ~~that is equal to half the amount of the examination fee]~~ for the  
21 expired license or order. ~~[If a license or order has been expired~~  
22 ~~for more than 90 days but less than one year, the person may renew~~  
23 ~~the license or order by paying to the department all unpaid renewal~~  
24 ~~fees and a fee that is equal to the amount of the examination fee for~~  
25 ~~the license.]~~

26 SECTION 24. Subsection (b), Section 505.403, Occupations  
27 Code, is amended to read as follows:



1 (b) The person must pay to the department a fee that is equal  
2 to the amount of the appropriate renewal [~~examination~~] fee for the  
3 license or order, as required by the board.

4 SECTION 25. Subchapter H, Chapter 505, Occupations Code, is  
5 amended by adding Section 505.405 to read as follows:

6 Sec. 505.405. GROUNDS FOR REFUSING RENEWAL. The board may  
7 refuse to renew the license of a person who fails to pay an  
8 administrative penalty imposed under Subchapter K unless  
9 enforcement of the penalty is stayed or a court has ordered that the  
10 administrative penalty is not owed.

11 SECTION 26. Section 505.451, Occupations Code, is amended  
12 to read as follows:

13 Sec. 505.451. GROUNDS FOR DENIAL [~~, REVOCATION, OR~~  
14 ~~SUSPENSION~~] OF LICENSE OR ORDER OF RECOGNITION OF SPECIALTY;  
15 DISCIPLINARY ACTION. The board shall deny an application for a  
16 license or order of recognition of specialty and shall revoke or  
17 suspend, including a suspension on an emergency basis, a license or  
18 order, place a holder of a license or order that has been suspended  
19 on probation, refuse to renew a person's license, or reprimand a  
20 holder of a license or order for:

21 (1) violating this chapter or a rule adopted by the  
22 board under this chapter;

23 (2) circumventing or attempting to circumvent the  
24 requirements of this chapter or a rule adopted by the board under  
25 this chapter;

26 (3) directly or indirectly participating in a scheme  
27 to evade the requirements of this chapter or a rule adopted by the

1 board under this chapter;

2 (4) engaging in unethical conduct;

3 (5) engaging in conduct that discredits or tends to  
4 discredit the social work profession;

5 (6) performing an act, allowing an omission, or making  
6 an assertion or representation that is fraudulent, deceitful, or  
7 misleading or that tends to create a misleading impression;

8 (7) knowingly associating with or permitting the use  
9 of a license holder's professional services or identification in  
10 connection with an enterprise that the person knows or should have  
11 known in the exercise of reasonable diligence violates this chapter  
12 or a rule adopted by the board under this chapter;

13 (8) knowingly associating with or permitting the use  
14 of a license holder's name, professional services or  
15 identification, or endorsement in connection with an enterprise  
16 that the person knows or should have known in the exercise of  
17 reasonable diligence is a trade, business, or professional practice  
18 of a fraudulent, deceitful, or misleading nature;

19 (9) directly or indirectly revealing or causing to be  
20 revealed a confidential communication transmitted to the license  
21 holder by a client or other recipient of the license holder's  
22 services unless revealing the communication is required by law;

23 (10) having been denied an application for a license  
24 or certificate to practice social work in another jurisdiction for  
25 a reason that the board determines would be a violation of this  
26 chapter or a rule adopted by the board under this chapter;

27 (11) holding a license or certificate in another

1 jurisdiction that is suspended or revoked for a reason that the  
2 board determines would be a violation of this chapter or a rule  
3 adopted by the board under this chapter;

4 (12) having been convicted of a felony in this state,  
5 another state, or the United States;

6 (13) refusing to perform an act or service within the  
7 scope of the license holder's license solely because of the  
8 recipient's age, sex, race, religion, national origin, color, or  
9 political affiliation; or

10 (14) committing an act for which liability exists  
11 under Chapter 81, Civil Practice and Remedies Code.

12 SECTION 27. Subchapter I, Chapter 505, Occupations Code, is  
13 amended by adding Section 505.458 to read as follows:

14 Sec. 505.458. REFUND. (a) Subject to Subsection (b), the  
15 board may order a license holder to pay a refund to a consumer as  
16 provided in an agreement resulting from an informal settlement  
17 conference instead of or in addition to imposing an administrative  
18 penalty under this chapter.

19 (b) The amount of a refund ordered as provided in an  
20 agreement resulting from an informal settlement conference may not  
21 exceed the amount the consumer paid to the license holder for a  
22 service regulated by this chapter. The board may not require  
23 payment of other damages or estimate harm in a refund order.

24 SECTION 28. Subchapter J, Chapter 505, Occupations Code, is  
25 amended by adding Section 505.508 to read as follows:

26 Sec. 505.508. CEASE AND DESIST ORDER. If it appears to the  
27 board that a person who is not licensed under this chapter is

1 violating this chapter, a rule adopted under this chapter, or  
2 another state statute or rule relating to the practice of social  
3 work, the board after notice and opportunity for a hearing may issue  
4 a cease and desist order prohibiting the person from engaging in the  
5 activity.

6 SECTION 29. Section 505.551, Occupations Code, is amended  
7 to read as follows:

8 Sec. 505.551. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
9 board may impose an administrative penalty on:

10 (1) a person licensed under this chapter who violates  
11 this chapter or a rule or order adopted under this chapter; and

12 (2) a person who violates a cease and desist order  
13 issued by the board under Section 505.508.

14 SECTION 30. Section 505.552, Occupations Code, is amended  
15 by amending Subsection (a) and adding Subsection (c) to read as  
16 follows:

17 (a) The amount of the administrative penalty may not be less  
18 than \$50 or more than \$5,000 [~~\$500~~] for each violation. Each day a  
19 violation continues or occurs is a separate violation for the  
20 purpose of imposing a penalty.

21 (c) The board by rule shall adopt an administrative penalty  
22 schedule based on the criteria listed in Subsection (b) for  
23 violations of this chapter or board rules to ensure that the amounts  
24 of penalties imposed are appropriate to the violation. The board  
25 shall provide the administrative penalty schedule to the public on  
26 request.

27 SECTION 31. (a) Not later than January 1, 2006, the Texas

1 State Board of Social Worker Examiners shall:

2 (1) adopt the policies required by Sections 505.210  
3 and 505.211, Occupations Code, as added by this Act; and

4 (2) adopt the rules required by Chapter 505,  
5 Occupations Code, as amended by this Act.

6 (b) Not later than March 1, 2006, the Texas State Board of  
7 Social Worker Examiners shall develop the jurisprudence  
8 examination required by Section 505.3545, Occupations Code, as  
9 added by this Act.

10 SECTION 32. (a) The changes in law made by Section  
11 505.105, Occupations Code, as amended by this Act, regarding the  
12 prohibitions on or qualifications of members of the Texas State  
13 Board of Social Worker Examiners do not affect the entitlement of a  
14 member serving on the board immediately before September 1, 2005,  
15 to continue to serve and function as a member of the board for the  
16 remainder of the member's term. The changes in law made by that  
17 section apply only to a member appointed on or after September 1,  
18 2005.

19 (b) The changes in law made by this Act governing the  
20 eligibility of a person for a license under Chapter 505,  
21 Occupations Code, apply only to an application for a license filed  
22 with the Texas State Board of Social Worker Examiners under Chapter  
23 505, Occupations Code, as amended by this Act, on or after the  
24 effective date of this Act. A license application filed before the  
25 effective date of this Act is governed by the law in effect at the  
26 time the application was filed, and the former law is continued in  
27 effect for that purpose.

1           (c) The changes in law made by this Act with respect to  
2 conduct that is grounds for imposition of a disciplinary sanction,  
3 including a refund, refusal to renew a license for failure to pay an  
4 administrative fee, or cease and desist order, apply only to  
5 conduct that occurs on or after the effective date of this Act.  
6 Conduct that occurs before the effective date of this Act is  
7 governed by the law in effect on the date the conduct occurred, and  
8 the former law is continued in effect for that purpose.

9           (d) The change in law made by Subsection (a), Section  
10 505.353, Occupations Code, as amended by this Act, and Section  
11 505.3545, Occupations Code, as added by this Act, regarding the  
12 jurisprudence examination, applies only to an application for a  
13 license filed with the Texas State Board of Social Worker Examiners  
14 under Chapter 505, Occupations Code, as amended by this Act, on or  
15 after September 1, 2006.

16           SECTION 33. (a) Not later than September 1, 2007, the  
17 Texas State Board of Social Worker Examiners by rule shall adjust  
18 the fees for renewal of an expired license under Chapter 505,  
19 Occupations Code, in accordance with Subsection (c), Section  
20 505.203, Occupations Code, as added by this Act.

21           (b) Notwithstanding Subsection (c), Section 505.203,  
22 Occupations Code, as added by this Act, and Subsection (c), Section  
23 505.402, Occupations Code, as amended by this Act, the fees for an  
24 applicant who applies for the renewal of an expired license under  
25 Chapter 505, Occupations Code, before the effective date of the  
26 adjustment required by Subsection (a) of this section are governed  
27 by the law in effect immediately before the effective date of this

1 Act, and the former law is continued in effect for that purpose. An  
2 applicant who applies for the renewal of an expired license under  
3 Chapter 505, Occupations Code, on or after the effective date of the  
4 adjustment required by Subsection (a) of this section is subject to  
5 the fees provided by the Texas State Board of Social Worker  
6 Examiners and Chapter 505, Occupations Code, as amended by this  
7 Act.

8 SECTION 34. This Act takes effect September 1, 2005.

S.B. No. 415

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 415 passed the Senate on March 31, 2005, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 19, 2005, by the following vote: Yeas 29, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 415 passed the House, with amendment, on May 17, 2005, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor