

1-1 By: Shapleigh S.B. No. 415
1-2 (In the Senate-Filed February 17, 2005; February 22, 2005,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 17, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 March 17, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 415 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to continuation and functions of the Texas State Board of
1-11 Social Worker Examiners; providing an administrative penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 505.002, Occupations Code, is amended by
1-14 adding Subdivision (2-a) and amending Subdivision (4) to read as
1-15 follows:

1-16 (2-a) "Commissioner" means the commissioner of state
1-17 health services.

1-18 (4) "Department" means the ~~[Texas]~~ Department of State
1-19 Health Services.

1-20 SECTION 2. Subsection (a), Section 505.003, Occupations
1-21 Code, is amended to read as follows:

1-22 (a) This chapter does not apply to:

1-23 (1) an activity conducted or a service performed by a
1-24 person who is licensed, certified, or registered in a profession
1-25 other than social work, including a physician, attorney, registered
1-26 nurse, licensed vocational nurse, psychologist, occupational
1-27 therapist, licensed marriage and family therapist, licensed
1-28 chemical dependency counselor, or licensed professional counselor,
1-29 if:

1-30 (A) the activity or service is conducted or
1-31 performed within the scope of the person's license, certificate, or
1-32 registration;

1-33 (B) the person does not use a title listed in
1-34 Section 505.351; and

1-35 (C) the person does not:

1-36 (i) represent the service as social work;

1-37 (ii) represent that the person is a social
1-38 worker; or

1-39 (iii) use a title that implies that the
1-40 person is licensed in social work;

1-41 (2) a service performed by a person as a volunteer or
1-42 staff member if the person does not:

1-43 (A) represent the service as social work;

1-44 (B) represent the person as a social worker; or

1-45 (C) use a title that implies that the person is
1-46 licensed in social work;

1-47 (3) an activity conducted by a social work student,
1-48 intern, or trainee in connection with an institution of higher
1-49 education accredited by the Council on Social Work Education; or

1-50 (4) ~~[a service performed by a person who does not
1-51 reside in this state if:~~

1-52 ~~[(A) the service is performed for fewer than 30
1-53 days in a calendar year; and~~

1-54 ~~[(B) the person is authorized to perform the
1-55 service under the laws of the state or country in which the person
1-56 resides; or~~

1-57 ~~[(5)]~~ an activity conducted or a service performed by
1-58 a pastoral care counselor who is acting within the person's
1-59 ministerial capabilities and who does not use a title that implies
1-60 that the counselor is licensed in social work, including:

1-61 (A) a Christian Science practitioner who is
1-62 recognized by the Church of Christ Scientist as registered and
1-63 published in the Christian Science Journal; and

(B) any other recognized religious practitioner.

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

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

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

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

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

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

(1) be licensed under this chapter; or

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

(b) A person is not eligible for appointment as a public member of the board if:

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

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

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

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

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

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

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

Sec. 505.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~r~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

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

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

(c) [~~A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health~~]

3-1 ~~care may not be a board member and may not be an employee of the~~
 3-2 ~~department who is exempt from the state's position classification~~
 3-3 ~~plan or is compensated at or above the amount prescribed by the~~
 3-4 ~~General Appropriations Act for step 1, salary group A17, of the~~
 3-5 ~~position classification salary schedule.~~

3-6 ~~[(d)] A person may not be [serve as] a member of the board or~~
 3-7 ~~act [serve] as general counsel to the board or the department if the~~
 3-8 ~~person is required to register as a lobbyist under Chapter 305,~~
 3-9 ~~Government Code, because of the person's activities for~~
 3-10 ~~compensation on behalf of a profession related to the operation of~~
 3-11 ~~the board.~~

3-12 SECTION 7. Subsections (a) and (c), Section 505.105,
 3-13 Occupations Code, are amended to read as follows:

3-14 (a) It is a ground for removal from the board that a member:

3-15 (1) does not have at the time of taking office
 3-16 ~~[appointment]~~ the qualifications required by Sections 505.101 and
 3-17 505.102(a);

3-18 (2) does not maintain during service on the board the
 3-19 qualifications required by Sections 505.101 and 505.102(a);

3-20 (3) is ineligible for membership under ~~[violates a~~
 3-21 ~~prohibition established by]~~ Section 505.103;

3-22 (4) cannot, because of illness or disability,
 3-23 discharge the member's duties for a substantial part of the member's
 3-24 term; or

3-25 (5) is absent from more than half of the regularly
 3-26 scheduled board meetings that the member is eligible to attend
 3-27 during a calendar year without an excuse approved by a ~~[, unless the~~
 3-28 ~~absence is excused by]~~ majority vote of the board.

3-29 (c) If the executive director has knowledge that a potential
 3-30 ground for removal exists, the executive director shall notify the
 3-31 presiding officer of the board of the potential ground. The
 3-32 presiding officer shall then notify the governor and the attorney
 3-33 general that a potential ground for removal exists. If the
 3-34 potential ground for removal involves the presiding officer, the
 3-35 executive director shall notify the next highest ranking officer of
 3-36 the board, who shall then notify the governor and attorney general
 3-37 that a potential ground for removal exists.

3-38 SECTION 8. Section 505.109, Occupations Code, is amended to
 3-39 read as follows:

3-40 Sec. 505.109. TRAINING. (a) A person who is appointed to
 3-41 and qualifies for office as a member of the board may not vote,
 3-42 deliberate, or be counted as a member in attendance at a meeting of
 3-43 the board until the person completes a training program that
 3-44 complies with ~~[Before a board member may assume the member's~~
 3-45 ~~duties, the member must complete at least one course of a training~~
 3-46 ~~program established by the board under]~~ this section.

3-47 (b) The training program must provide the person with
 3-48 information ~~[to a participant]~~ regarding:

3-49 (1) the legislation that created the board and the
 3-50 board's programs, functions, rules, and budget ~~[this chapter];~~

3-51 (2) ~~[the programs operated by the board,~~
 3-52 ~~[(3) the role and functions of the board,~~

3-53 ~~[(4) the rules of the board, with an emphasis on the~~
 3-54 ~~rules that relate to disciplinary and investigatory authority,~~

3-55 ~~[(5) the current budget for the board,~~
 3-56 ~~[(6)] the results of the most recent formal audit of~~

3-57 the board;
 3-58 (3) ~~[(7)]~~ the requirements of laws relating to open
 3-59 meetings, public information, administrative procedure, and
 3-60 conflicts of interest ~~[Chapters 551, 552, and 2001, Government~~
 3-61 ~~Code];~~

3-62 ~~[(8) the requirements of the conflict of interest laws~~
 3-63 ~~and other laws relating to public officials,]~~ and

3-64 (4) ~~[(9)]~~ any applicable ethics policies adopted by
 3-65 the board or the Texas Ethics Commission.

3-66 (c) A person appointed to the board is entitled to
 3-67 reimbursement, as provided by the General Appropriations Act, for
 3-68 the travel expenses incurred in attending the training program
 3-69 regardless of whether the attendance at the program occurs before

4-1 or after the person qualifies for office [~~In developing the~~
 4-2 ~~training program, the board shall consult with the governor, the~~
 4-3 ~~attorney general, and the Texas Ethics Commission].~~

4-4 [~~(d) If another state agency or entity is authorized to~~
 4-5 ~~establish the training requirements for board members, the board~~
 4-6 ~~shall allow that training instead of developing its own program.]~~

4-7 SECTION 9. Subchapter B, Chapter 505, Occupations Code, is
 4-8 amended by adding Section 505.110 to read as follows:

4-9 Sec. 505.110. BOARD COMMITTEES. (a) The board may appoint
 4-10 committees to assist the board with its functions under this
 4-11 chapter.

4-12 (b) Only a member of the board may serve as a member of a
 4-13 board committee.

4-14 SECTION 10. Subsection (a), Section 505.151, Occupations
 4-15 Code, is amended to read as follows:

4-16 (a) The commissioner [~~of public health~~] shall designate an
 4-17 employee of the department to serve as executive director of the
 4-18 board. The executive director serves at the will of the board.

4-19 SECTION 11. Subchapter C, Chapter 505, Occupations Code, is
 4-20 amended by adding Section 505.155 to read as follows:

4-21 Sec. 505.155. DIVISION OF RESPONSIBILITIES. The board
 4-22 shall develop and implement policies that clearly separate the
 4-23 policy-making responsibilities of the board and the management
 4-24 responsibilities of the executive director and staff of the
 4-25 department.

4-26 SECTION 12. Section 505.203, Occupations Code, is amended
 4-27 by adding Subsection (c) to read as follows:

4-28 (c) Unless the board determines that the fees would not
 4-29 cover the costs associated with administering the renewal of
 4-30 licenses and orders of recognition of specialty under this chapter,
 4-31 the board shall set:

4-32 (1) the renewal fee for a license or order of
 4-33 recognition of specialty expired for 90 days or less in an amount
 4-34 that is 1-1/4 times the amount of the renewal fee for an unexpired
 4-35 license or order; and

4-36 (2) the renewal fee for a license or order of
 4-37 recognition of specialty expired for more than 90 days but less than
 4-38 one year in an amount that is 1-1/2 times the amount of the renewal
 4-39 fee for an unexpired license or order.

4-40 SECTION 13. Section 505.207, Occupations Code, is amended
 4-41 to read as follows:

4-42 Sec. 505.207. ANNUAL REPORT REGARDING LICENSING. Not later
 4-43 than November 1 of each year, the commissioner [~~of public health~~]
 4-44 shall file with the governor and the presiding officer of each house
 4-45 of the legislature a written report regarding the licensing of
 4-46 social workers by the department during the preceding fiscal year.

4-47 SECTION 14. Subchapter D, Chapter 505, Occupations Code, is
 4-48 amended by adding Sections 505.209, 505.210, and 505.211 to read as
 4-49 follows:

4-50 Sec. 505.209. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

4-51 (a) The board shall adopt rules necessary to comply with Chapter
 4-52 53.

4-53 (b) In its rules under this section, the board shall list
 4-54 the specific offenses for which a conviction would constitute
 4-55 grounds for the board to take action under Section 53.021.

4-56 Sec. 505.210. USE OF TECHNOLOGY. The board shall implement
 4-57 a policy requiring the board to use appropriate technological
 4-58 solutions to improve the board's ability to perform its functions.
 4-59 The policy must ensure that the public is able to interact with the
 4-60 board on the Internet.

4-61 Sec. 505.211. NEGOTIATED RULEMAKING AND ALTERNATIVE
 4-62 DISPUTE RESOLUTION POLICY. (a) The board shall develop and
 4-63 implement a policy to encourage the use of:

4-64 (1) negotiated rulemaking procedures under Chapter
 4-65 2008, Government Code, for the adoption of board rules; and

4-66 (2) appropriate alternative dispute resolution
 4-67 procedures under Chapter 2009, Government Code, to assist in the
 4-68 resolution of internal and external disputes under the board's
 4-69 jurisdiction.

5-1 (b) The board's procedures relating to alternative dispute
5-2 resolution must conform, to the extent possible, to any model
5-3 guidelines issued by the State Office of Administrative Hearings
5-4 for the use of alternative dispute resolution by state agencies.

5-5 (c) The department shall designate a trained person to:
5-6 (1) coordinate the implementation of the policy
5-7 adopted under Subsection (a);
5-8 (2) serve as a resource for any training needed to
5-9 implement the procedures for negotiated rulemaking or alternative
5-10 dispute resolution; and
5-11 (3) collect data concerning the effectiveness of those
5-12 procedures, as implemented by the board.

5-13 SECTION 15. Section 505.253, Occupations Code, is amended
5-14 to read as follows:

5-15 Sec. 505.253. RECORDS OF COMPLAINTS. (a) The board shall
5-16 maintain a system to promptly and efficiently act on complaints
5-17 filed with the board. The board shall maintain:

5-18 (1) information about the parties to the complaint and
5-19 the subject matter of the complaint;

5-20 (2) a summary of the results of the review or
5-21 investigation of the complaint; and

5-22 (3) information about the disposition of the complaint
5-23 ~~[keep an information file about each complaint filed with the~~
5-24 ~~department and referred to the board. The information file shall be~~
5-25 ~~kept current and must contain a record for each complaint of:~~

5-26 ~~[(1) each person contacted in relation to the~~
5-27 ~~complaint;~~

5-28 ~~[(2) a summary of findings made at each step of the~~
5-29 ~~complaint process;~~

5-30 ~~[(3) an explanation of the legal basis and reason for a~~
5-31 ~~complaint that is dismissed;~~

5-32 ~~[(4) the schedule established under Section~~
5-33 ~~505.254(b)(2) for the complaint and a notation of any change in the~~
5-34 ~~schedule; and~~

5-35 ~~[(5) other relevant information].~~

5-36 (b) The board shall make information available describing
5-37 its procedures for complaint investigation and resolution.

5-38 (c) The board shall periodically notify the parties of the
5-39 status of the complaint until final disposition of the complaint
5-40 ~~[If a written complaint is referred to the board that the board has~~
5-41 ~~the authority to resolve, the board, at least quarterly and until~~
5-42 ~~final disposition of the complaint, shall notify the parties to the~~
5-43 ~~complaint of the status of the complaint unless the notice would~~
5-44 ~~jeopardize an undercover investigation].~~

5-45 SECTION 16. Subsection (a), Section 505.2545, Occupations
5-46 Code, is amended to read as follows:

5-47 (a) In an investigation of a complaint filed with the
5-48 department and referred to the board, the board may request that the
5-49 commissioner ~~[of public health]~~ or the commissioner's designee
5-50 approve the issuance of a subpoena. If the request is approved, the
5-51 board may issue a subpoena to compel the attendance of a relevant
5-52 witness or the production, for inspection or copying, of relevant
5-53 evidence that is in this state.

5-54 SECTION 17. Subchapter E, Chapter 505, Occupations Code, is
5-55 amended by adding Section 505.2547 to read as follows:

5-56 Sec. 505.2547. COMPLAINT COMMITTEE. The board shall
5-57 appoint at least one public member of the board to any board
5-58 committee established to review a complaint filed with the board or
5-59 review an enforcement action against a license holder related to a
5-60 complaint filed with the board.

5-61 SECTION 18. Subsection (a), Section 505.353, Occupations
5-62 Code, is amended to read as follows:

5-63 (a) To be eligible for a license under this chapter, an
5-64 applicant must:

5-65 (1) be at least 18 years of age;

5-66 (2) be worthy of the public trust and confidence;

5-67 (3) satisfy the education and experience requirements
5-68 under this section; and

5-69 (4) pass the licensing examination conducted by the

6-1 board under Section 505.354 and the jurisprudence examination
6-2 conducted by the board under Section 505.3545.

6-3 SECTION 19. Subchapter G, Chapter 505, Occupations Code, is
6-4 amended by adding Section 505.3545 to read as follows:

6-5 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The board
6-6 shall develop and administer at least twice each calendar year a
6-7 jurisprudence examination to determine an applicant's knowledge of
6-8 this chapter, board rules, and any other applicable laws of this
6-9 state affecting the applicant's social work practice.

6-10 (b) The board shall adopt rules to implement this section,
6-11 including rules related to the development and administration of
6-12 the examination, examination fees, guidelines for reexamination,
6-13 grading the examination, and providing notice of examination
6-14 results.

6-15 SECTION 20. Section 505.357, Occupations Code, is amended
6-16 to read as follows:

6-17 Sec. 505.357. TEMPORARY LICENSE. (a) The board shall
6-18 issue a temporary license to an applicant who:

6-19 (1) has not taken the licensing examination under
6-20 Section 505.354 or the jurisprudence examination under Section
6-21 505.3545; and

6-22 (2) satisfies the requirements for obtaining a license
6-23 under this chapter other than passing the licensing and
6-24 jurisprudence examinations [~~examination~~].

6-25 (b) A temporary license is valid until the results of the
6-26 first appropriate licensing and jurisprudence examinations
6-27 [~~written examination~~] given after the date the license is issued
6-28 are available.

6-29 SECTION 21. Subsections (a) and (b), Section 505.359,
6-30 Occupations Code, are amended to read as follows:

6-31 (a) The board shall issue an appropriate license to a
6-32 provisional license holder:

6-33 (1) who passes the licensing examination under Section
6-34 505.354 and the jurisprudence examination under Section 505.3545;

6-35 (2) for whom the board verifies that the person
6-36 satisfies the academic and experience requirements under Section
6-37 505.353; and

6-38 (3) who satisfies any other license requirements under
6-39 this chapter.

6-40 (b) The board shall complete the processing of a provisional
6-41 license holder's application for a license not later than the 180th
6-42 day after the date the provisional license is issued or the date
6-43 licenses are issued after successful completion of the next
6-44 licensing and jurisprudence examinations [~~examination~~], whichever
6-45 date is later.

6-46 SECTION 22. Subsections (a) and (c), Section 505.402,
6-47 Occupations Code, are amended to read as follows:

6-48 (a) A person may renew an unexpired license or order of
6-49 recognition of specialty by paying the appropriate [~~required~~]
6-50 renewal fee required by the board to the department before the
6-51 expiration date of the license or order.

6-52 (c) A person whose license or order of recognition of
6-53 specialty has been expired for [~~90 days or~~] less than one year may
6-54 renew the license or order by paying to the department the
6-55 appropriate [~~required~~] renewal fee required by the board [~~and a fee~~
6-56 that is equal to half the amount of the examination fee] for the
6-57 expired license or order. [~~If a license or order has been expired~~
6-58 for more than 90 days but less than one year, the person may renew
6-59 the license or order by paying to the department all unpaid renewal
6-60 fees and a fee that is equal to the amount of the examination fee for
6-61 the license.]

6-62 SECTION 23. Subsection (b), Section 505.403, Occupations
6-63 Code, is amended to read as follows:

6-64 (b) The person must pay to the department a fee that is equal
6-65 to the amount of the appropriate renewal [~~examination~~] fee for the
6-66 license or order, as required by the board.

6-67 SECTION 24. Subchapter H, Chapter 505, Occupations Code, is
6-68 amended by adding Section 505.405 to read as follows:

6-69 Sec. 505.405. GROUNDS FOR REFUSING RENEWAL. The board may

7-1 refuse to renew the license of a person who fails to pay an
7-2 administrative penalty imposed under Subchapter K unless
7-3 enforcement of the penalty is stayed or a court has ordered that the
7-4 administrative penalty is not owed.

7-5 SECTION 25. Section 505.451, Occupations Code, is amended
7-6 to read as follows:

7-7 Sec. 505.451. GROUNDS FOR DENIAL~~[, REVOCATION, OR~~
7-8 ~~SUSPENSION]~~ OF LICENSE OR ORDER OF RECOGNITION OF SPECIALTY;
7-9 DISCIPLINARY ACTION. The board shall deny an application for a
7-10 license or order of recognition of specialty and shall revoke or
7-11 suspend, including a suspension on an emergency basis, a license or
7-12 order, place a holder of a license or order that has been suspended
7-13 on probation, refuse to renew a person's license, or reprimand a
7-14 holder of a license or order for:

7-15 (1) violating this chapter or a rule adopted by the
7-16 board under this chapter;

7-17 (2) circumventing or attempting to circumvent the
7-18 requirements of this chapter or a rule adopted by the board under
7-19 this chapter;

7-20 (3) directly or indirectly participating in a scheme
7-21 to evade the requirements of this chapter or a rule adopted by the
7-22 board under this chapter;

7-23 (4) engaging in unethical conduct;

7-24 (5) engaging in conduct that discredits or tends to
7-25 discredit the social work profession;

7-26 (6) performing an act, allowing an omission, or making
7-27 an assertion or representation that is fraudulent, deceitful, or
7-28 misleading or that tends to create a misleading impression;

7-29 (7) knowingly associating with or permitting the use
7-30 of a license holder's professional services or identification in
7-31 connection with an enterprise that the person knows or should have
7-32 known in the exercise of reasonable diligence violates this chapter
7-33 or a rule adopted by the board under this chapter;

7-34 (8) knowingly associating with or permitting the use
7-35 of a license holder's name, professional services or
7-36 identification, or endorsement in connection with an enterprise
7-37 that the person knows or should have known in the exercise of
7-38 reasonable diligence is a trade, business, or professional practice
7-39 of a fraudulent, deceitful, or misleading nature;

7-40 (9) directly or indirectly revealing or causing to be
7-41 revealed a confidential communication transmitted to the license
7-42 holder by a client or other recipient of the license holder's
7-43 services unless revealing the communication is required by law;

7-44 (10) having been denied an application for a license
7-45 or certificate to practice social work in another jurisdiction for
7-46 a reason that the board determines would be a violation of this
7-47 chapter or a rule adopted by the board under this chapter;

7-48 (11) holding a license or certificate in another
7-49 jurisdiction that is suspended or revoked for a reason that the
7-50 board determines would be a violation of this chapter or a rule
7-51 adopted by the board under this chapter;

7-52 (12) having been convicted of a felony in this state,
7-53 another state, or the United States;

7-54 (13) refusing to perform an act or service within the
7-55 scope of the license holder's license solely because of the
7-56 recipient's age, sex, race, religion, national origin, color, or
7-57 political affiliation; or

7-58 (14) committing an act for which liability exists
7-59 under Chapter 81, Civil Practice and Remedies Code.

7-60 SECTION 26. Subchapter I, Chapter 505, Occupations Code, is
7-61 amended by adding Section 505.458 to read as follows:

7-62 Sec. 505.458. REFUND. (a) Subject to Subsection (b), the
7-63 board may order a license holder to pay a refund to a consumer as
7-64 provided in an agreement resulting from an informal settlement
7-65 conference instead of or in addition to imposing an administrative
7-66 penalty under this chapter.

7-67 (b) The amount of a refund ordered as provided in an
7-68 agreement resulting from an informal settlement conference may not
7-69 exceed the amount the consumer paid to the license holder for a

8-1 service regulated by this chapter. The board may not require
 8-2 payment of other damages or estimate harm in a refund order.

8-3 SECTION 27. Subchapter J, Chapter 505, Occupations Code, is
 8-4 amended by adding Section 505.508 to read as follows:

8-5 Sec. 505.508. CEASE AND DESIST ORDER. If it appears to the
 8-6 board that a person who is not licensed under this chapter is
 8-7 violating this chapter, a rule adopted under this chapter, or
 8-8 another state statute or rule relating to the practice of social
 8-9 work, the board after notice and opportunity for a hearing may issue
 8-10 a cease and desist order prohibiting the person from engaging in the
 8-11 activity.

8-12 SECTION 28. Section 505.551, Occupations Code, is amended
 8-13 to read as follows:

8-14 Sec. 505.551. IMPOSITION OF ADMINISTRATIVE PENALTY. The
 8-15 board may impose an administrative penalty on:

8-16 (1) a person licensed under this chapter who violates
 8-17 this chapter or a rule or order adopted under this chapter; and

8-18 (2) a person who violates a cease and desist order
 8-19 issued by the board under Section 505.508.

8-20 SECTION 29. Section 505.552, Occupations Code, is amended
 8-21 by amending Subsection (a) and adding Subsection (c) to read as
 8-22 follows:

8-23 (a) The amount of the administrative penalty may not be less
 8-24 than \$50 or more than \$5,000 [~~\$500~~] for each violation. Each day a
 8-25 violation continues or occurs is a separate violation for the
 8-26 purpose of imposing a penalty.

8-27 (c) The board by rule shall adopt an administrative penalty
 8-28 schedule based on the criteria listed in Subsection (b) for
 8-29 violations of this chapter or board rules to ensure that the amounts
 8-30 of penalties imposed are appropriate to the violation. The board
 8-31 shall provide the administrative penalty schedule to the public on
 8-32 request.

8-33 SECTION 30. (a) Not later than January 1, 2006, the Texas
 8-34 State Board of Social Worker Examiners shall:

8-35 (1) adopt the policies required by Sections 505.210
 8-36 and 505.211, Occupations Code, as added by this Act; and

8-37 (2) adopt the rules required by Chapter 505,
 8-38 Occupations Code, as amended by this Act.

8-39 (b) Not later than March 1, 2006, the Texas State Board of
 8-40 Social Worker Examiners shall develop the jurisprudence
 8-41 examination required by Section 505.3545, Occupations Code, as
 8-42 added by this Act.

8-43 SECTION 31. (a) The changes in law made by Section
 8-44 505.105, Occupations Code, as amended by this Act, regarding the
 8-45 prohibitions on or qualifications of members of the Texas State
 8-46 Board of Social Worker Examiners do not affect the entitlement of a
 8-47 member serving on the board immediately before September 1, 2005,
 8-48 to continue to serve and function as a member of the board for the
 8-49 remainder of the member's term. The changes in law made by that
 8-50 section apply only to a member appointed on or after September 1,
 8-51 2005.

8-52 (b) The changes in law made by this Act governing the
 8-53 eligibility of a person for a license under Chapter 505,
 8-54 Occupations Code, apply only to an application for a license filed
 8-55 with the Texas State Board of Social Worker Examiners under Chapter
 8-56 505, Occupations Code, as amended by this Act, on or after the
 8-57 effective date of this Act. A license application filed before the
 8-58 effective date of this Act is governed by the law in effect at the
 8-59 time the application was filed, and the former law is continued in
 8-60 effect for that purpose.

8-61 (c) The changes in law made by this Act with respect to
 8-62 conduct that is grounds for imposition of a disciplinary sanction,
 8-63 including a refund, refusal to renew a license for failure to pay an
 8-64 administrative fee, or cease and desist order, apply only to
 8-65 conduct that occurs on or after the effective date of this Act.
 8-66 Conduct that occurs before the effective date of this Act is
 8-67 governed by the law in effect on the date the conduct occurred, and
 8-68 the former law is continued in effect for that purpose.

8-69 (d) The change in law made by Subsection (a), Section

9-1 505.353, Occupations Code, as amended by this Act, and Section
9-2 505.3545, Occupations Code, as added by this Act, regarding the
9-3 jurisprudence examination, applies only to an application for a
9-4 license filed with the Texas State Board of Social Worker Examiners
9-5 under Chapter 505, Occupations Code, as amended by this Act, on or
9-6 after September 1, 2006.

9-7 SECTION 32. (a) Not later than September 1, 2007, the
9-8 Texas State Board of Social Worker Examiners by rule shall adjust
9-9 the fees for renewal of an expired license under Chapter 505,
9-10 Occupations Code, in accordance with Subsection (c), Section
9-11 505.203, Occupations Code, as added by this Act.

9-12 (b) Notwithstanding Subsection (c), Section 505.203,
9-13 Occupations Code, as added by this Act, and Subsection (c), Section
9-14 505.402, Occupations Code, as amended by this Act, the fees for an
9-15 applicant who applies for the renewal of an expired license under
9-16 Chapter 505, Occupations Code, before the effective date of the
9-17 adjustment required by Subsection (a) of this section are governed
9-18 by the law in effect immediately before the effective date of this
9-19 Act, and the former law is continued in effect for that purpose. An
9-20 applicant who applies for the renewal of an expired license under
9-21 Chapter 505, Occupations Code, on or after the effective date of the
9-22 adjustment required by Subsection (a) of this section is subject to
9-23 the fees provided by the Texas State Board of Social Worker
9-24 Examiners and Chapter 505, Occupations Code, as amended by this
9-25 Act.

9-26 SECTION 33. This Act takes effect September 1, 2005.

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