

## **BILL ANALYSIS**

Senate Research Center

S.B. 2001  
By: Watson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

On January 12, 2016, the United States Court of Appeals for the 5th Circuit (5th Circuit) struck down Texas' definition of psychological services in the Psychologists' Licensing Act in the opinion *Serafine v. Branaman*. The court's ruling effectively prevents the Texas State Board of Examiners of Psychologists (TSBEP) from taking action against an individual practicing psychology in Texas without a license. Whether the ruling will affect only TSBEP or be felt throughout Texas' other mental health professions remains to be seen.

As part of the Sunset process for TSBEP, the Sunset Advisory Commission's (Sunset's) staff made a recommendation for TSBEP to develop three definitions that would be approved by the House Public Health and the Senate Health and Human Services Committees. Because Sunset did not feel it was appropriate to mandate certain committees to take specific legislative action, Sunset modified this recommendation and instead directed TSBEP to appoint a working group of stakeholders to develop three definition options.

S.B. 2001 adopts one of those definitions to ensure that TSBEP can once again protect citizens from the unlicensed provision of psychological services.

As proposed, S.B. 2001 amends current law relating to defining the practice of psychology.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 501.003, Occupations Code, as follows:

Sec. 501.003. PRACTICE OF PSYCHOLOGY. (a) Defines "psychological services."

(b) Provides that a person is engaged in the practice of psychology within the meaning of this chapter (Psychologists) if the person:

(1) represents himself or herself to the public by a title or description of services that includes the word "psychological," "psychologist," or "psychology" when providing or offering to provide psychological services to another in a professional relationship;

(2) provides or offers to provide psychological services to individuals, groups, organizations, or the public in a professional relationship;

(3) is a psychologist or psychological associate employed as described by Section 501.004(a)(1) (relating to proving that this chapter does not apply to a person who is employed as a psychologist or psychological associate by a regionally accredited institution of higher education under certain circumstances), who offers or provides psychological services, other than

lecture services, to the public for consideration separate from the salary that person receives for performing the person's regular duties; or

(4) is employed as a psychologist or psychological associate by an organization that sells certain psychological services to the public for consideration.

(c) Provides that the practice of psychology is defined as:

(1) the observation, description, diagnosis, evaluation, assessment, interpretation, or intervention in and treatment of human behavior by applying education, training, methods, and procedures for the purposes of:

(A) preventing, predicting, treating, remediating or eliminating certain behaviors, disorders, or mental illness;

(B) facilitating the enhancement of individual, group, or organizational effectiveness, including certain assistance, when such facilitation is offered or provided by a licensee or a person who represents the person to the public by a certain title or description;

(C) providing certain therapies and remediations;

(D) providing professional psychological expertise and services in legal proceedings;

(E) consulting with others, such as other mental health professionals, physicians, school personnel, or organizations within the scope of the provider's competency and training with respect to services provided for a specific individual.

(2) includes the supervision of any of the activities or services listed under Paragraph (1) above.

(3) does not include the following situations under certain circumstances:

(A) the offering of advice, counsel, or guidance addressing or affecting the mental, emotional, or behavioral health of another individual, whether solicited or unsolicited, when:

(i) the advice, counsel, or guidance is not offered in the context of a professional relationship;

(ii) the primary focus of the provider's occupation is other than the delivery of mental, emotional, or behavioral health care services and the person is offering the advice, counsel, or guidance ancillary to the person's occupation; or

(iii) the advice, counsel, or guidance is offered within the context of an organized or structured program or peer support service that is designed to support or assist individuals with a self-identified goal of changing or improving certain aspects of their mental, emotional, or behavioral health; and

(B) the individual offering the advice, counsel, or guidance does not represent himself or herself to be a licensee of the Texas State Board of Examiners of Psychologists; or that he or she is otherwise

engaged in the delivery of psychological services, and the advice, counsel, or guidance as being psychological in nature.

(a) Deletes existing Subsection (a) defining "psychological services."

(b) Deletes existing Subsection (b) relating to defining a person engaged in the practice of psychology.

(c) Deletes existing Subsection (c) defining the "practice of psychology."

SECTION 7. Effective date: September 1, 2017.