

1-1 By: Martinez (Senate Sponsor - Taylor of Collin) H.B. No. 442  
 1-2 (In the Senate - Received from the House April 24, 2017;  
 1-3 May 10, 2017, read first time and referred to Committee on Business  
 1-4 & Commerce; May 22, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 May 22, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 442 By: Creighton

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the licensing and regulation of certain professions,  
 1-22 including the online publication of home addresses of certain  
 1-23 occupational license holders.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter B, Chapter 403, Occupations Code, is  
 1-26 amended by adding Section 403.053 to read as follows:

1-27 Sec. 403.053. PUBLISHING LICENSE HOLDER HOME ADDRESS  
 1-28 PROHIBITED. (a) The department may not include the home address of  
 1-29 a person licensed under this chapter in a roster, registry, or other  
 1-30 database the department publishes on the department's Internet  
 1-31 website unless the person requests that the person's home address  
 1-32 appear in the roster, registry, or other database on the website. A  
 1-33 request under this subsection must be made in the manner prescribed  
 1-34 by the department.

1-35 (b) The home address of a person licensed under this chapter  
 1-36 that is included in a roster, registry, or other database the  
 1-37 department maintains is public information and is not excepted from  
 1-38 required disclosure under Chapter 552, Government Code.

1-39 SECTION 2. Section 501.059, Occupations Code, is amended by  
 1-40 amending Subsection (b) and adding Subsection (d) to read as  
 1-41 follows:

1-42 (b) The training program must provide the person with  
 1-43 information regarding:

1-44 (1) the law governing board operations;

1-45 (2) [this chapter and] the programs, functions, rules,  
 1-46 and budget of the board;

1-47 (3) the scope of and limitations on the rulemaking  
 1-48 authority of the board;

1-49 (4) the types of board rules, interpretations, and  
 1-50 enforcement actions that may implicate federal antitrust law by  
 1-51 limiting competition or impacting prices charged by persons engaged  
 1-52 in a profession or business the board regulates, including rules,  
 1-53 interpretations, and enforcement actions that:

1-54 (A) regulate the scope of practice of persons in  
 1-55 a profession or business the board regulates;

1-56 (B) restrict advertising by persons in a  
 1-57 profession or business the board regulates;

1-58 (C) affect the price of goods or services  
 1-59 provided by persons in a profession or business the board  
 1-60 regulates; and

2-1 (D) restrict participation in a profession or  
 2-2 business the board regulates;  
 2-3 (5) [~~(2)~~] the results of the most recent formal audit  
 2-4 of the board;  
 2-5 (6) [~~(3)~~] the requirements of:  
 2-6 (A) laws relating to open meetings, public  
 2-7 information, administrative procedure, and disclosing conflicts of  
 2-8 interest; and  
 2-9 (B) other laws applicable to members of the board  
 2-10 in performing their duties; and  
 2-11 (7) [~~(4)~~] any applicable ethics policies adopted by  
 2-12 the board or the Texas Ethics Commission.  
 2-13 (d) The executive director shall create a training manual  
 2-14 that includes the information required by Subsection (b). The  
 2-15 executive director shall distribute a copy of the training manual  
 2-16 annually to each board member. On receipt of the training manual,  
 2-17 each board member shall sign and submit to the executive director a  
 2-18 statement acknowledging receipt of the training manual.  
 2-19 SECTION 3. Sections 501.158(c) and (e), Occupations Code,  
 2-20 are amended to read as follows:  
 2-21 (c) The board shall issue an order requiring a [an applicant  
 2-22 or] person [seeking renewal of a provisional license] who refuses  
 2-23 to submit to an examination under this section to show cause for the  
 2-24 person's refusal at a hearing on the order scheduled for not later  
 2-25 than the 30th day after the date notice is served on the person. The  
 2-26 board shall provide notice under this section by personal service  
 2-27 or by registered mail, return receipt requested.  
 2-28 (e) Unless the request is withdrawn, the board may take  
 2-29 disciplinary action against a person who refuses to submit to the  
 2-30 physical or mental examination [may not take the provisional  
 2-31 license examination or renew the person's license, as appropriate].  
 2-32 SECTION 4. Sections 501.205(a) and (b), Occupations Code,  
 2-33 are amended to read as follows:  
 2-34 (a) Except as provided by Subsection (b), a complaint and  
 2-35 investigation [concerning a license holder] and all information and  
 2-36 materials compiled by the board in connection with the complaint  
 2-37 and investigation are not subject to:  
 2-38 (1) disclosure under Chapter 552, Government Code; or  
 2-39 (2) disclosure, discovery, subpoena, or other means of  
 2-40 legal compulsion for release of information to any person.  
 2-41 (b) A complaint or investigation [subject to Subsection  
 2-42 (a)] and all information and materials compiled by the board in  
 2-43 connection with the complaint may be disclosed to:  
 2-44 (1) the board and board employees or agents involved  
 2-45 in license holder discipline;  
 2-46 (2) a party to a disciplinary action against the  
 2-47 license holder or that party's designated representative;  
 2-48 (3) a law enforcement agency if required by law;  
 2-49 (4) a governmental agency, if:  
 2-50 (A) the disclosure is required or permitted by  
 2-51 law; and  
 2-52 (B) the agency obtaining the disclosure protects  
 2-53 the identity of any patient whose records are examined; or  
 2-54 (5) a legislative committee or committee staff  
 2-55 directed to make an inquiry regarding state hospitals or schools,  
 2-56 by either house of the legislature, the presiding officer of either  
 2-57 house of the legislature, or the chairman of the legislative  
 2-58 committee if the information or records that identify a patient or  
 2-59 client are not released for any purpose unless the patient consents  
 2-60 and the records are created by the state hospital or school or its  
 2-61 employees.  
 2-62 SECTION 5. The heading to Section 501.301, Occupations  
 2-63 Code, is amended to read as follows:  
 2-64 Sec. 501.301. LICENSE EXPIRATION AND RENEWAL.  
 2-65 SECTION 6. Section 501.301(a), Occupations Code, is amended  
 2-66 to read as follows:  
 2-67 (a) The board shall adopt rules providing for the expiration  
 2-68 and renewal of a [A] license issued under this chapter. The rules  
 2-69 must require a license be renewed annually or biennially [expires

3-1 ~~on December 31 of the year following the date the license is issued~~  
 3-2 ~~or renewed. A license of a psychological associate expires on May~~  
 3-3 ~~31 of the year following the date the license is issued or renewed].~~

3-4 SECTION 7. Subchapter I, Chapter 501, Occupations Code, is  
 3-5 amended by adding Section 501.411 to read as follows:

3-6 Sec. 501.411. REMEDIAL PLAN. (a) The board may issue and  
 3-7 establish the terms of a remedial plan to resolve the investigation  
 3-8 of a complaint filed under this chapter.

3-9 (b) The board by rule shall establish the types of  
 3-10 complaints or violations that may be resolved with a remedial plan.  
 3-11 The rules must provide that a remedial plan may not be imposed to  
 3-12 resolve a complaint:

3-13 (1) involving conduct that poses a significant risk of  
 3-14 harm to a patient; or

3-15 (2) in which the appropriate resolution may involve  
 3-16 revoking, suspending, limiting, or restricting a person's license.

3-17 (c) A remedial plan may not contain a provision that:

3-18 (1) revokes, suspends, limits, or restricts a person's  
 3-19 license; or

3-20 (2) assesses an administrative penalty against a  
 3-21 person.

3-22 (d) The board may not issue a remedial plan to resolve a  
 3-23 complaint against a license holder if the license holder has  
 3-24 previously entered into a remedial plan with the board for the  
 3-25 resolution of a different complaint filed under this chapter.

3-26 (e) The board may assess a fee against a license holder  
 3-27 participating in a remedial plan in an amount necessary to recover  
 3-28 the costs of administering the plan.

3-29 SECTION 8. Section 502.059, Occupations Code, is amended by  
 3-30 amending Subsection (b) and adding Subsection (d) to read as  
 3-31 follows:

3-32 (b) The training program must provide the person with  
 3-33 information regarding:

3-34 (1) ~~the law governing board operations [this chapter];~~

3-35 (2) ~~the programs, [operated by the board,~~

3-36 ~~[(3) the role and] functions, [of the board,~~

3-37 ~~[(4) the] rules, and [of the board, with an emphasis on~~

3-38 ~~the rules that relate to disciplinary and investigatory authority,~~

3-39 ~~[(5) the current] budget of [for] the board;~~

3-40 (3) the scope of and limitations on the rulemaking  
 3-41 authority of the board;

3-42 (4) the types of board rules, interpretations, and  
 3-43 enforcement actions that may implicate federal antitrust law by  
 3-44 limiting competition or impacting prices charged by persons engaged  
 3-45 in a profession or business the board regulates, including rules,  
 3-46 interpretations, and enforcement actions that:

3-47 (A) regulate the scope of practice of persons in  
 3-48 a profession or business the board regulates;

3-49 (B) restrict advertising by persons in a  
 3-50 profession or business the board regulates;

3-51 (C) affect the price of goods or services  
 3-52 provided by persons in a profession or business the board  
 3-53 regulates; and

3-54 (D) restrict participation in a profession or  
 3-55 business the board regulates;

3-56 (5) ~~[(6)]~~ the results of the most recent formal audit  
 3-57 of the board;

3-58 (6) ~~[(7)]~~ the requirements of:

3-59 (A) laws relating to open meetings, public  
 3-60 information, administrative procedure, and disclosing conflicts  
 3-61 [conflict] of interest; and

3-62 (B) other laws applicable to members of the board  
 3-63 in performing their duties; and

3-64 (7) ~~[(8)]~~ any applicable ethics policies adopted by  
 3-65 the board or the Texas Ethics Commission.

3-66 (d) The executive director shall create a training manual  
 3-67 that includes the information required by Subsection (b). The  
 3-68 executive director shall distribute a copy of the training manual  
 3-69 annually to each board member. On receipt of the training manual,

4-1 each board member shall sign and submit to the executive director a  
4-2 statement acknowledging receipt of the training manual.

4-3 SECTION 9. Section 502.252(c), Occupations Code, is amended  
4-4 to read as follows:

4-5 (c) An applicant is eligible to apply for a license as a  
4-6 licensed marriage and family therapist if the person:

4-7 (1) meets the requirements of Subsection (b);

4-8 (2) after receipt of a degree described by Subsection  
4-9 (b)(4), has completed two years of work experience in marriage and  
4-10 family therapist services that includes at least 3,000 hours of  
4-11 clinical practice consisting of ~~[which:~~

4-12 ~~[(A)]~~ at least 1,500 hours ~~[consist]~~ of direct  
4-13 clinical services, including a minimum number of ~~[, and (B) at~~  
4-14 ~~least 750]~~ hours providing ~~[consist of]~~ direct clinical services to  
4-15 couples or families as required by board rule; and

4-16 (3) has completed, in a manner acceptable to the  
4-17 board, at least 200 hours of supervised provision of direct  
4-18 clinical services by the applicant, 100 hours of which must be  
4-19 supervised on an individual basis.

4-20 SECTION 10. Section 503.110, Occupations Code, is amended  
4-21 by amending Subsection (b) and adding Subsection (d) to read as  
4-22 follows:

4-23 (b) The training program must provide the person with  
4-24 information regarding:

4-25 (1) the law governing board operations;

4-26 (2) ~~[this chapter and]~~ the [board's] programs,  
4-27 functions, rules, and budget of the board;

4-28 (3) the scope of and limitations on the rulemaking  
4-29 authority of the board;

4-30 (4) the types of board rules, interpretations, and  
4-31 enforcement actions that may implicate federal antitrust law by  
4-32 limiting competition or impacting prices charged by persons engaged  
4-33 in a profession or business the board regulates, including rules,  
4-34 interpretations, and enforcement actions that:

4-35 (A) regulate the scope of practice of persons in  
4-36 a profession or business the board regulates;

4-37 (B) restrict advertising by persons in a  
4-38 profession or business the board regulates;

4-39 (C) affect the price of goods or services  
4-40 provided by persons in a profession or business the board  
4-41 regulates; and

4-42 (D) restrict participation in a profession or  
4-43 business the board regulates;

4-44 (5) ~~[(2)]~~ the results of the most recent formal audit  
4-45 of the board;

4-46 (6) ~~[(3)]~~ the requirements of:

4-47 (A) laws relating to open meetings, public  
4-48 information, administrative procedure, and disclosing  
4-49 conflicts-of-interest; and

4-50 (B) other laws applicable to members of the board  
4-51 in performing their duties; and

4-52 (7) ~~[(4)]~~ any applicable ethics policies adopted by  
4-53 the board or the Texas Ethics Commission.

4-54 (d) The executive director shall create a training manual  
4-55 that includes the information required by Subsection (b). The  
4-56 executive director shall distribute a copy of the training manual  
4-57 annually to each board member. On receipt of the training manual,  
4-58 each board member shall sign and submit to the executive director a  
4-59 statement acknowledging receipt of the training manual.

4-60 SECTION 11. Section 503.207, Occupations Code, is amended  
4-61 by adding Subsections (c) and (d) to read as follows:

4-62 (c) The board may not include the home address of a person  
4-63 licensed under this chapter in a registry the board publishes on the  
4-64 board's Internet website unless the person requests that the  
4-65 person's home address appear in the registry on the website. A  
4-66 request under this subsection must be made in the manner prescribed  
4-67 by the board.

4-68 (d) The home address of a person licensed under this chapter  
4-69 that is included in the registry the board prepares under this

5-1 section is public information and is not excepted from required  
 5-2 disclosure under Chapter 552, Government Code.

5-3 SECTION 12. Section 504.055, Occupations Code, is amended  
 5-4 by adding Subsections (e) and (f) to read as follows:

5-5 (e) The department may not include the home address of a  
 5-6 person licensed by the department in a roster the department  
 5-7 publishes on the department's Internet website unless the person  
 5-8 requests that the person's home address appear in the roster on the  
 5-9 website. A request under this subsection must be made in the manner  
 5-10 prescribed by the department.

5-11 (f) The home address of a person licensed under this chapter  
 5-12 that is included in a roster the department prepares under this  
 5-13 section is public information and is not excepted from required  
 5-14 disclosure under Chapter 552, Government Code.

5-15 SECTION 13. Section 505.109, Occupations Code, is amended  
 5-16 by amending Subsection (b) and adding Subsection (d) to read as  
 5-17 follows:

5-18 (b) The training program must provide the person with  
 5-19 information regarding:

5-20 (1) the law governing [~~legislation that created the~~]  
 5-21 board operations;

5-22 (2) [and] the [board's] programs, functions, rules,  
 5-23 and budget of the board;

5-24 (3) the scope of and limitations on the rulemaking  
 5-25 authority of the board;

5-26 (4) the types of board rules, interpretations, and  
 5-27 enforcement actions that may implicate federal antitrust law by  
 5-28 limiting competition or impacting prices charged by persons engaged  
 5-29 in a profession or business the board regulates, including rules,  
 5-30 interpretations, and enforcement actions that:

5-31 (A) regulate the scope of practice of persons in  
 5-32 a profession or business the board regulates;

5-33 (B) restrict advertising by persons in a  
 5-34 profession or business the board regulates;

5-35 (C) affect the price of goods or services  
 5-36 provided by persons in a profession or business the board  
 5-37 regulates; and

5-38 (D) restrict participation in a profession or  
 5-39 business the board regulates;

5-40 (5) [~~(2)~~] the results of the most recent formal audit  
 5-41 of the board;

5-42 (6) [~~(3)~~] the requirements of:

5-43 (A) laws relating to open meetings, public  
 5-44 information, administrative procedure, and disclosing conflicts of  
 5-45 interest; and

5-46 (B) other laws applicable to members of the board  
 5-47 in performing their duties; and

5-48 (7) [~~(4)~~] any applicable ethics policies adopted by  
 5-49 the board or the Texas Ethics Commission.

5-50 (d) The executive director shall create a training manual  
 5-51 that includes the information required by Subsection (b). The  
 5-52 executive director shall distribute a copy of the training manual  
 5-53 annually to each board member. On receipt of the training manual,  
 5-54 each board member shall sign and submit to the executive director a  
 5-55 statement acknowledging receipt of the training manual.

5-56 SECTION 14. Section 505.205, Occupations Code, is amended  
 5-57 by adding Subsections (d) and (e) to read as follows:

5-58 (d) The board may not include the home address of a person  
 5-59 licensed under this chapter in a roster the board publishes on the  
 5-60 board's Internet website unless the person requests that the  
 5-61 person's home address appear in the roster on the website. A  
 5-62 request under this subsection must be made in the manner prescribed  
 5-63 by the board.

5-64 (e) The home address of a person licensed under this chapter  
 5-65 that is included in the roster the board prepares under this section  
 5-66 is public information and is not excepted from required disclosure  
 5-67 under Chapter 552, Government Code.

5-68 SECTION 15. The following provisions of the Occupations  
 5-69 Code are repealed:

- 6-1 (1) Section 501.152(b);
- 6-2 (2) Section 502.153(b);
- 6-3 (3) Section 503.202(b); and
- 6-4 (4) Section 505.203(b).

6-5 SECTION 16. (a) Except as provided by Subsection (b) of  
6-6 this section, Sections 501.059, 502.059, 503.110, and 505.109,  
6-7 Occupations Code, as amended by this Act, apply to a member of the  
6-8 applicable board appointed before, on, or after the effective date  
6-9 of this Act.

6-10 (b) A member of a board who, before the effective date of  
6-11 this Act, completed the training program required by Section  
6-12 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the  
6-13 applicable law existed before the effective date of this Act, is  
6-14 required to complete additional training only on the subjects added  
6-15 by this Act to the training program required by Section 501.059,  
6-16 502.059, 503.110, or 505.109, Occupations Code, as applicable. A  
6-17 board member described by this subsection may not vote, deliberate,  
6-18 or be counted as a member in attendance at a meeting of the board  
6-19 held on or after December 1, 2017, until the member completes the  
6-20 additional training.

6-21 SECTION 17. Section 502.252, Occupations Code, as amended  
6-22 by this Act, applies only to an application for a license submitted  
6-23 on or after the date on which rules adopted by the Texas State Board  
6-24 of Examiners of Marriage and Family Therapists under that section  
6-25 take effect. An application submitted before that date is governed  
6-26 by the law in effect immediately before the effective date of this  
6-27 Act, and the former law is continued in effect for that purpose.

6-28 SECTION 18. This Act takes effect September 1, 2017.

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