

By: Hinojosa, et al.

S.B. No. 311

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Behavioral Health Executive Council and to the continuation and transfer of the regulation of sex offender treatment providers, psychologists, marriage and family therapists, professional counselors, chemical dependency counselors, and social workers to the Texas Behavioral Health Executive Council; providing civil and administrative penalties; authorizing a fee.

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

ARTICLE 1. CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

SECTION 1.001. Subtitle I, Title 3, Occupations Code, is amended by adding Chapter 506 to read as follows:

CHAPTER 506. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 506.001. DEFINITIONS. In this chapter:

(1) "Executive council" means the Texas Behavioral Health Executive Council.

(2) "License" means a license, certification, registration, or other authorization that is issued by the executive council.

(3) "Marriage and family therapy board" means the Texas State Board of Examiners of Marriage and Family Therapists.

(4) "Professional counseling board" means the Texas

State Board of Examiners of Professional Counselors.

(5) "Psychology board" means the Texas State Board of Examiners of Psychologists.

(6) "Social work board" means the Texas State Board of Social Worker Examiners.

Sec. 506.002. APPLICATION OF SUNSET ACT. The Texas Behavioral Health Executive Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and the following laws expire September 1, 2029:

(1) Chapter 110; and

(2) this subtitle.

SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

Sec. 506.051. EXECUTIVE COUNCIL MEMBERSHIP. (a) The Texas Behavioral Health Executive Council consists of nine members as follows:

(1) one marriage and family therapist member and one public member of the marriage and family therapy board, each appointed by that board;

(2) one licensed professional counselor member and one public member of the professional counseling board, each appointed by that board;

(3) one psychologist or psychological associate member and one public member of the psychology board, each appointed by that board;

(4) one social worker member and one public member of the social work board, each appointed by that board; and

1           (5) one public member appointed by the governor.

2           (b) Appointments to the executive council shall be made  
3 without regard to the race, color, disability, sex, age, religion,  
4 or national origin of the appointee.

5           Sec. 506.052. ELIGIBILITY OF PUBLIC MEMBER APPOINTED BY  
6 GOVERNOR. A person is not eligible for appointment by the governor  
7 as a public member of the executive council if the person or the  
8 person's spouse:

9           (1) is registered, certified, or licensed by an  
10 occupational regulatory agency in the field of health care;

11           (2) is employed by or participates in the management  
12 of a business entity or other organization regulated by or  
13 receiving money from the executive council, the marriage and family  
14 therapy board, the professional counseling board, the psychology  
15 board, or the social work board;

16           (3) owns or controls, directly or indirectly, more  
17 than a 10 percent interest in a business entity or other  
18 organization regulated by or receiving money from the executive  
19 council, the marriage and family therapy board, the professional  
20 counseling board, the psychology board, or the social work board;  
21 or

22           (4) uses or receives a substantial amount of tangible  
23 goods, services, or money from the executive council, the marriage  
24 and family therapy board, the professional counseling board, the  
25 psychology board, or the social work board, other than compensation  
26 or reimbursement authorized by law for executive council, marriage  
27 and family therapy board, professional counseling board,

psychology board, or social work board membership, attendance, or expenses.

Sec. 506.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
In this section, "Texas trade association" means a cooperative 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 may not be a member of the executive council and  
may not be an executive council employee 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 health care.

(c) A person may not be a member of the executive council or  
act as the general counsel to the executive council if the person is  
required to register as a lobbyist under Chapter 305, Government  
Code, because of the person's activities for compensation on behalf  
of a profession related to the operation of the executive council,  
the marriage and family therapy board, the professional counseling  
board, the psychology board, or the social work board.

1       Sec. 506.054. TERMS; VACANCY. (a) The member appointed by  
2 the governor serves a six-year term. The remaining members serve  
3 two-year terms with the terms of four of those members expiring  
4 February 1 of each year.

5       (b) A member appointed to fill a vacancy holds office for  
6 the unexpired portion of the term.

7       Sec. 506.055. PRESIDING OFFICER. The member appointed by  
8 the governor is the presiding officer of the executive council.

9       Sec. 506.056. GROUNDS FOR REMOVAL. (a) It is a ground for  
10 removal from the executive council that a member:

11           (1) does not have at the time of taking office the  
12 qualifications required by Section 506.051;

13           (2) does not maintain during service on the executive  
14 council the qualifications required by Section 506.051;

15           (3) is ineligible for membership under Section 506.052  
16 or 506.053;

17           (4) cannot, because of illness or disability,  
18 discharge the member's duties for a substantial part of the member's  
19 term; or

20           (5) is absent from more than half of the regularly  
21 scheduled executive council meetings that the member is eligible to  
22 attend during a calendar year without an excuse approved by a  
23 majority vote of the executive council.

24       (b) The validity of an action of the executive council is  
25 not affected by the fact that it is taken when a ground for removal  
26 of an executive council member exists.

27       (c) If the executive director has knowledge that a potential

ground for removal exists, the executive director shall notify the  
presiding officer of the executive council of the potential ground.  
The presiding officer shall then notify the appointing authority  
and the attorney general that a potential ground for removal  
exists. If the potential ground for removal involves the presiding  
officer, the executive director shall notify the next highest  
ranking officer of the executive council, who shall then notify the  
appointing authority and the attorney general that a potential  
ground for removal exists.

Sec. 506.057. REIMBURSEMENT. A member of the executive  
council may receive reimbursement for travel expenses as provided  
by the General Appropriations Act.

Sec. 506.058. MEETINGS. (a) The executive council shall  
hold at least two regular meetings each year.

(b) The executive council may hold additional meetings on  
the request of the presiding officer or on the written request of  
three members of the executive council.

Sec. 506.059. TRAINING. (a) A person who is appointed to  
and qualifies for office as a member of the executive council may  
not vote, deliberate, or be counted as a member in attendance at a  
meeting of the executive council until the person completes a  
training program that complies with this section.

(b) The training program must provide the person with  
information regarding:

- (1) the law governing executive council operations;
- (2) the programs, functions, rules, and budget of the  
executive council;

1           (3) the scope of and limitations on the rulemaking  
2 authority of the executive council;

3           (4) the results of the most recent formal audit of the  
4 executive council;

5           (5) the requirements of:

6               (A) laws relating to open meetings, public  
7 information, administrative procedure, and disclosing conflicts of  
8 interest; and

9               (B) other laws applicable to members of the  
10 executive council in performing their duties; and

11           (6) any applicable ethics policies adopted by the  
12 executive council or the Texas Ethics Commission.

13           (c) A person appointed to the executive council is entitled  
14 to reimbursement, as provided by the General Appropriations Act,  
15 for the travel expenses incurred in attending the training program  
16 regardless of whether the attendance at the program occurs before  
17 or after the person qualifies for office.

18           (d) The executive director of the executive council shall  
19 create a training manual that includes the information required by  
20 Subsection (b). The executive director shall distribute a copy of  
21 the training manual annually to each executive council member. On  
22 receipt of the training manual, each executive council member shall  
23 sign and submit to the executive director a statement acknowledging  
24 receipt of the training manual.

25           SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

26           Sec. 506.101. EXECUTIVE DIRECTOR; PERSONNEL. The executive  
27 council shall employ an executive director and other personnel as

necessary to administer this chapter and carry out the functions of the executive council.

Sec. 506.102. DIVISION OF RESPONSIBILITIES. The executive council shall develop and implement policies that clearly separate the policymaking responsibilities of the executive council and the management responsibilities of the executive director and the staff of the executive council.

Sec. 506.103. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for executive council employees must be based on the system established under this subsection.

Sec. 506.104. EQUAL OPPORTUNITY POLICY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, age, religion, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with the



1 requirements of Chapter 21, Labor Code;

2 (2) a comprehensive analysis of the executive council  
3 workforce that meets federal and state guidelines;

4 (3) procedures by which a determination can be made of  
5 significant underuse in the executive council workforce of all  
6 persons for whom federal or state guidelines encourage a more  
7 equitable balance; and

8 (4) reasonable methods to appropriately address those  
9 areas of significant underuse.

10 (b) A policy statement prepared under Subsection (a) must:

11 (1) cover an annual period;

12 (2) be updated annually;

13 (3) be reviewed by the Texas Workforce Commission for  
14 compliance with Subsection (a)(1); and

15 (4) be filed with the governor.

16 (c) The governor shall deliver a biennial report to the  
17 legislature based on information received under Subsection (b).  
18 The report may be made separately or as part of other biennial  
19 reports made to the legislature.

20 SUBCHAPTER D. POWERS AND DUTIES

21 Sec. 506.151. GENERAL POWERS AND DUTIES. The executive  
22 council shall administer and enforce Chapter 110 and this subtitle.

23 Sec. 506.152. GENERAL RULEMAKING AUTHORITY. The executive  
24 council shall adopt rules as necessary to perform its duties and  
25 implement this chapter.

26 Sec. 506.153. LIMITATION REGARDING CERTAIN RULES. (a)  
27 Unless the rule has been proposed by the applicable council or board

for a profession regulated by the executive council under Chapter 110, 501, 502, 503, or 505, the executive council may not adopt:

(1) a rule regarding:

(A) the qualifications necessary to obtain a license, including limiting an applicant's eligibility for a license based on the applicant's criminal history;

(B) the scope of practice of and standards of care and ethical practice for the profession; or

(C) continuing education requirements for license holders; or

(2) a schedule of sanctions for violations of the laws and rules applicable to the profession.

(b) For each rule proposed under Subsection (a), the executive council shall either adopt the rule as proposed or return the rule to the applicable council or board for revision. On the return of a rule under this subsection, the executive council shall include an explanation of the executive council's reasons for not adopting the rule as proposed.

(c) The executive council retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

(d) The executive council shall adopt rules prescribing the procedure by which rules described by Subsection (a) may be proposed to the executive council.

Sec. 506.154. FEES. The executive council shall set fees in amounts reasonable and necessary to cover the costs of administering Chapter 110 and this subtitle, including fees for:

1           (1) licenses issued by the executive council;  
2           (2) license renewals and late renewals;  
3           (3) examinations; and  
4           (4) any other program or activity administered by the  
5 executive council for which a fee is authorized.

6           Sec. 506.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
7 BIDDING. (a) The executive council may not adopt rules restricting  
8 advertising or competitive bidding by a person regulated by the  
9 executive council except to prohibit false, misleading, or  
10 deceptive practices.

11           (b) The executive council may not include in rules to  
12 prohibit false, misleading, or deceptive practices by a person  
13 regulated by the executive council a rule that:

14           (1) restricts the person's use of any advertising  
15 medium;

16           (2) restricts the person's personal appearance or use  
17 of the person's voice in an advertisement;

18           (3) relates to the size or duration of an  
19 advertisement by the person; or

20           (4) restricts the use of a trade name in advertising by  
21 the person.

22           Sec. 506.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.  
23 The executive council shall adopt rules and guidelines as necessary  
24 to comply with Chapter 53.

25           Sec. 506.157. CONTINUING EDUCATION. The executive council  
26 shall recognize, prepare, or administer continuing education  
27 programs for license holders. A license holder must participate in

1 the programs to the extent required by the executive council to keep  
2 the person's license.

3 Sec. 506.158. USE OF TECHNOLOGY. The executive council  
4 shall implement a policy requiring the executive council to use  
5 appropriate technological solutions to improve the executive  
6 council's ability to perform its functions. The policy must ensure  
7 that the public is able to interact with the executive council on  
8 the Internet.

9 Sec. 506.159. NEGOTIATED RULEMAKING AND ALTERNATIVE  
10 DISPUTE RESOLUTION POLICY. (a) The executive council shall  
11 develop a policy to encourage the use of:

12 (1) negotiated rulemaking procedures under Chapter  
13 2008, Government Code, for the adoption of executive council rules;  
14 and

15 (2) appropriate alternative dispute resolution  
16 procedures under Chapter 2009, Government Code, to assist in the  
17 resolution of internal and external disputes under the executive  
18 council's jurisdiction.

19 (b) The executive council's procedures relating to  
20 alternative dispute resolution must conform, to the extent  
21 possible, to any model guidelines issued by the State Office of  
22 Administrative Hearings for the use of alternative dispute  
23 resolution by state agencies.

24 (c) The executive council shall:

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

27 (2) provide training as needed to implement the

procedures for negotiated rulemaking and alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 506.201. PUBLIC INTEREST INFORMATION. (a) The executive council shall prepare information of public interest describing the functions of the executive council and the procedures by which complaints are filed with and resolved by the executive council.

(b) The executive council shall make the information available to the public and appropriate state agencies.

Sec. 506.202. COMPLAINTS. (a) The executive council by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the executive council for the purpose of directing complaints to the executive council. The executive council may provide for that notice:

(1) on each registration form, application, or written contract for services of a person regulated by the executive council;

(2) on a sign prominently displayed in the place of business of a person regulated by the executive council; or

(3) in a bill for services provided by a person regulated by the executive council.

(b) The executive council shall list with its regular telephone number any toll-free telephone number established under

1 other state law that may be called to present a complaint about a  
2 person regulated by the executive council.

3 Sec. 506.203. INFORMATION ABOUT COMPLAINT ACTIONS. (a)  
4 The executive council shall maintain a system to promptly and  
5 efficiently act on complaints filed with the executive council.  
6 The executive council shall maintain information about parties to  
7 the complaint, the subject matter of the complaint, a summary of the  
8 results of the review or investigation of the complaint, and its  
9 disposition.

10 (b) The executive council shall make information available  
11 describing its procedures for complaint investigation and  
12 resolution.

13 (c) The executive council shall periodically notify the  
14 parties to a complaint of the status of the complaint until final  
15 disposition of the complaint.

16 Sec. 506.204. GENERAL RULES REGARDING COMPLAINT  
17 INVESTIGATION. (a) The executive council shall adopt rules  
18 concerning the investigation of a complaint filed with the  
19 executive council. The rules adopted under this section must:

20 (1) distinguish between categories of complaints;  
21 (2) ensure that a complaint is not dismissed without  
22 appropriate consideration;

23 (3) require that the executive council be advised of a  
24 complaint that is dismissed and that a letter be sent to the person  
25 who filed the complaint explaining the action taken on the  
26 complaint;

27 (4) ensure that the person who files a complaint has an

opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and prescribe the procedures for the executive council to obtain the services of a private investigator.

(b) The executive council shall:

(1) dispose of a complaint in a timely manner; and

(2) establish a schedule for conducting each phase of the disposition of a complaint that is under the control of the executive council not later than the 30th day after the date the executive council receives the complaint.

(c) The executive council shall notify the parties to a complaint of the projected time requirements for pursuing the complaint.

(d) The executive council shall notify the parties to the complaint of any change in the schedule not later than the seventh day after the date the change is made.

(e) The executive director shall notify the executive council of a complaint that is unresolved after the time prescribed by the executive council for resolving the complaint so that the executive council may take necessary action on the complaint.

(f) The executive council shall assign priorities and investigate complaints based on:

(1) the severity of the conduct alleged in the complaint; and

(2) the degree of harm to public health and safety.

Sec. 506.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.

1 (a) Except as provided by Subsection (b), a complaint and  
2 investigation and all information and materials compiled by the  
3 executive council in connection with the complaint and  
4 investigation are not subject to:

5 (1) disclosure under Chapter 552, Government Code; or  
6 (2) disclosure, discovery, subpoena, or other means of  
7 legal compulsion for release of information to any person.

8 (b) A complaint or investigation subject to Subsection (a)  
9 and all information and materials compiled by the executive council  
10 in connection with the complaint may be disclosed to:

11 (1) the executive council and executive council  
12 employees or agents involved in license holder discipline;

13 (2) a party to a disciplinary action against the  
14 license holder or that party's designated representative;

15 (3) a law enforcement agency;

16 (4) a governmental agency, if:

17 (A) the disclosure is required or permitted by  
18 law; and

19 (B) the agency obtaining the disclosure protects  
20 the identity of any patient whose records are examined; or

21 (5) a person engaged in bona fide research, if all  
22 information identifying a specific individual has been deleted.

23 (c) Unless good cause for delay is shown to the presiding  
24 officer at the hearing, the executive council shall provide the  
25 license holder with access to all information that the executive  
26 council intends to offer into evidence at the hearing not later than  
27 the 30th day after the date the executive council receives a written



1 request from a license holder who is entitled to a hearing under  
2 this chapter or from the license holder's attorney of record.

3 (d) The executive council shall protect the identity of any  
4 patient whose records are examined in connection with a  
5 disciplinary investigation or proceeding against a license holder,  
6 except a patient who:

7 (1) initiates the disciplinary action; or

8 (2) has submitted a written consent to release the  
9 records.

10 Sec. 506.206. SUBPOENAS. (a) In the investigation of a  
11 complaint filed with the executive council, the executive director  
12 or presiding officer of the executive council may issue a subpoena  
13 to compel the attendance of a relevant witness or the production,  
14 for inspection or copying, of relevant evidence that is in this  
15 state.

16 (b) A subpoena may be served personally or by certified  
17 mail.

18 (c) If a person fails to comply with a subpoena, the  
19 executive council, acting through the attorney general, may file  
20 suit to enforce the subpoena in a district court in Travis County or  
21 in the county in which a hearing conducted by the executive council  
22 may be held.

23 (d) On finding that good cause exists for issuing the  
24 subpoena, the court shall order the person to comply with the  
25 subpoena. The court may punish a person who fails to obey the court  
26 order.

27 (e) The executive council shall pay a reasonable fee for

1 photocopies subpoenaed under this section in an amount not to  
2 exceed the amount the executive council may charge for copies of its  
3 records.

4 (f) The reimbursement of the expenses of a witness whose  
5 attendance is compelled under this section is governed by Section  
6 2001.103, Government Code.

7 (g) Information and materials subpoenaed or compiled by the  
8 executive council in connection with the investigation of a  
9 complaint may be disclosed only as provided by Section 506.205.

10 Sec. 506.207. PUBLIC PARTICIPATION. The executive council  
11 shall develop and implement policies that provide the public with a  
12 reasonable opportunity to appear before the executive council and  
13 to speak on any issue under the jurisdiction of the executive  
14 council.

15 SUBCHAPTER F. GENERAL LICENSING PROVISIONS

16 Sec. 506.251. CRIMINAL HISTORY RECORD INFORMATION FOR  
17 LICENSE ISSUANCE. (a) The executive council shall require that an  
18 applicant for a license submit a complete and legible set of  
19 fingerprints, on a form prescribed by the executive council, to the  
20 executive council or to the Department of Public Safety for the  
21 purpose of obtaining criminal history record information from the  
22 Department of Public Safety and the Federal Bureau of  
23 Investigation.

24 (b) The executive council may not issue a license to a  
25 person who does not comply with the requirement of Subsection (a).

26 (c) The executive council shall conduct a criminal history  
27 record information check of each applicant for a license using

1 information:

2 (1) provided by the individual under this section; and  
3 (2) made available to the executive council by the  
4 Department of Public Safety, the Federal Bureau of Investigation,  
5 and any other criminal justice agency under Chapter 411, Government  
6 Code.

7 (d) The executive council may:

8 (1) enter into an agreement with the Department of  
9 Public Safety to administer a criminal history record information  
10 check required under this section; and

11 (2) authorize the Department of Public Safety to  
12 collect from each applicant the costs incurred by the Department of  
13 Public Safety in conducting the criminal history record information  
14 check.

15 Sec. 506.252. EXAMINATION RESULTS. (a) The executive  
16 council shall notify each examinee of the results of an examination  
17 not later than the 30th day after the date the examination is  
18 administered. If an examination is graded or reviewed by a national  
19 testing service, the executive council shall notify each examinee  
20 of the results of the examination not later than the 14th day after  
21 the date the executive council receives the results from the  
22 testing service.

23 (b) If the notice of examination results graded or reviewed  
24 by a national testing service will be delayed for longer than 90  
25 days after the examination date, the executive council shall notify  
26 each examinee of the reason for the delay before the 90th day.

27 (c) If requested in writing by a person who fails an

1 examination, the executive council shall provide to the person an  
2 analysis of the person's performance on the examination.

3 Sec. 506.253. REEXAMINATION. The executive council by rule  
4 shall establish:

5 (1) a limit on the number of times an applicant for a  
6 license who fails an examination may retake the examination; and

7 (2) the requirements for retaking an examination.

8 Sec. 506.254. LICENSE RENEWAL. (a) A person who is  
9 otherwise eligible to renew a license may renew an unexpired  
10 license by paying the required renewal fee to the executive council  
11 before the expiration date of the license.

12 (b) If the person's license has been expired for 90 days or  
13 less, the person may renew the license by paying to the executive  
14 council a fee in an amount equal to one and one-half times the  
15 required renewal fee.

16 (c) If the person's license has been expired for more than  
17 90 days but less than one year, the person may renew the license by  
18 paying to the executive council a fee in an amount equal to two  
19 times the required renewal fee.

20 (d) If the person's license has been expired for one year or  
21 more, the person may not renew the license. The person may obtain a  
22 new license by submitting to reexamination and complying with the  
23 requirements and procedures for obtaining an original license.

24 Sec. 506.255. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE  
25 PRACTITIONER. (a) The executive council may renew without  
26 reexamination an expired license of a person who was licensed in  
27 this state, moved to another state, and is currently licensed and

1 has been in practice in the other state for the two years preceding  
2 the date the person applies for renewal.

3 (b) The person must pay to the executive council a fee in an  
4 amount equal to two times the required renewal fee for the license.

5 Sec. 506.256. CRIMINAL HISTORY RECORD INFORMATION  
6 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
7 license issued under this chapter shall submit a complete and  
8 legible set of fingerprints for purposes of performing a criminal  
9 history record information check of the applicant as provided by  
10 Section 506.251.

11 (b) The executive council may administratively suspend or  
12 refuse to renew the license of a person who does not comply with the  
13 requirement of Subsection (a).

14 (c) A license holder is not required to submit fingerprints  
15 under this section for the renewal of a license if the license  
16 holder has previously submitted fingerprints under:

17 (1) Section 506.251 for the initial issuance of the  
18 license; or

19 (2) this section as part of a prior license renewal.

20 Sec. 506.257. SEARCH OF NATIONAL PRACTITIONER DATABASE.  
21 The executive council shall establish a process to search at least  
22 one national practitioner database to determine whether another  
23 state has taken any disciplinary or other legal action against an  
24 applicant or license holder before issuing an initial or renewal  
25 license.

26 SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES

27 Sec. 506.301. DISCIPLINARY ACTIONS. (a) The executive

council may deny, revoke, suspend, or refuse to renew a license or may reprimand a license holder if the applicant or license holder violates:

(1) this chapter;

(2) a law of this state regulating the license holder's profession;

(3) an executive council rule; or

(4) a statute or rule of another state as determined through a search conducted as provided by Section 506.257 if the violation would constitute a violation described by Subdivision (1), (2), or (3) had it occurred in this state.

(b) The executive council may place on probation a person whose license is suspended. If a license suspension is probated, the executive council may require the person to:

(1) report regularly to the executive council on matters that are the basis of the probation;

(2) limit the person's practice to the areas prescribed by the executive council; or

(3) continue or review continuing professional education until the person attains a degree of skill satisfactory to the executive council in those areas that are the basis for the probation.

Sec. 506.302. TEMPORARY SUSPENSION. (a) The executive council or a three-member committee of executive council members designated by the executive council shall temporarily suspend the license of a license holder if the executive council or committee determines from the evidence or information presented to it that

1 continued practice by the license holder would constitute a  
2 continuing and imminent threat to the public welfare.

3 (b) A license may be suspended under this section without  
4 notice or hearing on the complaint if:

5 (1) action is taken to initiate proceedings for a  
6 hearing before the State Office of Administrative Hearings  
7 simultaneously with the temporary suspension; and

8 (2) a hearing is held as soon as practicable under this  
9 chapter and Chapter 2001, Government Code.

10 (c) The State Office of Administrative Hearings shall hold a  
11 preliminary hearing not later than the 14th day after the date of  
12 the temporary suspension to determine if there is probable cause to  
13 believe that a continuing and imminent threat to the public welfare  
14 still exists. A final hearing on the matter shall be held not later  
15 than the 61st day after the date of the temporary suspension.

16 Sec. 506.303. HEARING; ADMINISTRATIVE PROCEDURE. (a) A  
17 license holder is entitled to a hearing before the State Office of  
18 Administrative Hearings before a sanction is imposed under this  
19 subchapter.

20 (b) A proceeding under this subchapter is governed by  
21 Chapter 2001, Government Code.

22 Sec. 506.304. SCHEDULE OF SANCTIONS. (a) The executive  
23 council by rule shall adopt a broad schedule of sanctions.

24 (b) The State Office of Administrative Hearings shall use  
25 the schedule for any sanction imposed under this subchapter as the  
26 result of a hearing conducted by that office.

27 Sec. 506.305. INFORMAL PROCEEDINGS. (a) The executive

council by rule shall adopt procedures governing:

(1) informal disposition of a contested case under  
Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with  
Section 2001.054, Government Code.

(b) Rules adopted under this section must:

(1) provide the complainant and the license holder  
with an opportunity to be heard; and

(2) require the presence of a member of the executive  
council's legal staff or an attorney employed by the attorney  
general to advise the executive council or the executive council's  
employees.

Sec. 506.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS. The  
executive council shall adopt rules establishing the manner in  
which the executive council will solicit input from and request the  
assistance of the applicable council or board for a profession  
regulated by the executive council under Chapter 110, 501, 502,  
503, or 505, regarding a disciplinary proceeding before the  
executive council involving an issue or complaint related to  
standards of care or ethical practice.

SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 506.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
executive council may impose an administrative penalty on a person  
licensed or regulated by the executive council if the person  
violates this chapter, a law regulating the applicable profession,  
or an executive council rule.

Sec. 506.352. AMOUNT OF PENALTY. (a) The amount of an



administrative penalty may not exceed \$5,000 for each violation.  
Each day a violation continues or occurs is a separate violation for  
purposes of imposing a penalty.

(b) The amount of the penalty must be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and  
gravity of any prohibited act; and

(B) the hazard or potential hazard created to the  
health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment  
caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts made to correct the violation; and

(6) any other matter that justice may require.

Sec. 506.353. NOTICE OF VIOLATION AND PENALTY. If the  
executive council determines that a violation occurred, the  
executive council shall give written notice of the violation to the  
person alleged to have committed the violation. The notice may be  
given by certified mail. The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the administrative penalty  
recommended by the executive council; and

(3) inform the person of the person's right to a  
hearing on the occurrence of the violation, the amount of the  
penalty, or both.

Sec. 506.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

1 Not later than the 20th day after the date the person receives the  
2 notice under Section 506.353, the person may in writing:

3 (1) accept the executive council's determination and  
4 recommended administrative penalty; or

5 (2) request a hearing on the occurrence of the  
6 violation, the amount of the penalty, or both.

7 (b) If the person accepts the executive council's  
8 determination and recommended penalty, the executive council shall  
9 issue an order and impose the recommended penalty.

10 Sec. 506.355. HEARING. (a) If the person requests a  
11 hearing or fails to respond in a timely manner to the notice under  
12 Section 506.353, the executive council shall set a hearing and give  
13 written notice of the hearing to the person.

14 (b) An administrative law judge of the State Office of  
15 Administrative Hearings shall hold the hearing.

16 (c) The administrative law judge shall make findings of fact  
17 and conclusions of law and promptly issue to the executive council a  
18 proposal for a decision as to the occurrence of the violation and  
19 the amount of any proposed administrative penalty.

20 Sec. 506.356. DECISION BY EXECUTIVE COUNCIL. (a) Based on  
21 the findings of fact, conclusions of law, and proposal for a  
22 decision, the executive council by order may determine that:

23 (1) a violation occurred and impose an administrative  
24 penalty; or

25 (2) a violation did not occur.

26 (b) The executive council shall give notice of the order to  
27 the person. The notice must include a statement of the right of the

1 person to judicial review of the order.

2 Sec. 506.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

3 (a) Not later than the 30th day after the date the executive  
4 council's order becomes final, the person shall:

5 (1) pay the administrative penalty; or

6 (2) file a petition for judicial review contesting the  
7 occurrence of the violation, the amount of the penalty, or both.

8 (b) Within the 30-day period prescribed by Subsection (a), a  
9 person who files a petition for judicial review may:

10 (1) stay enforcement of the penalty by:

11 (A) paying the penalty to the court for placement  
12 in an escrow account; or

13 (B) giving to the court a supersedeas bond  
14 approved by the court that is:

15 (i) for the amount of the penalty; and

16 (ii) effective until judicial review of the  
17 executive council's order is final; or

18 (2) request the court to stay enforcement of the  
19 penalty by:

20 (A) filing with the court a sworn affidavit of  
21 the person stating that the person is financially unable to pay the  
22 penalty and is financially unable to give the supersedeas bond; and

23 (B) giving a copy of the affidavit to the  
24 executive council by certified mail.

25 (c) If the executive council receives a copy of an affidavit  
26 under Subsection (b)(2), the executive council may file with the  
27 court a contest to the affidavit not later than the fifth day after

1 the date the copy is received.

2 (d) The court shall hold a hearing on the facts alleged in  
3 the affidavit as soon as practicable and shall stay the enforcement  
4 of the penalty on finding that the alleged facts are true. The  
5 person who files the affidavit has the burden of proving that the  
6 person is financially unable to pay the penalty or to give a  
7 supersedeas bond.

8 Sec. 506.358. COLLECTION OF PENALTY. If the person does not  
9 pay the administrative penalty and enforcement of the penalty is  
10 not stayed, the executive council may refer the matter to the  
11 attorney general for collection of the penalty.

12 Sec. 506.359. DETERMINATION BY COURT. (a) If the court  
13 sustains the determination that a violation has occurred, the court  
14 may uphold or reduce the amount of the administrative penalty and  
15 order the person to pay the full or reduced amount of the penalty.

16 (b) If the court does not sustain the determination that a  
17 violation occurred, the court shall order that a penalty is not  
18 owed.

19 Sec. 506.360. REMITTANCE OF PENALTY AND INTEREST. (a) If,  
20 after judicial review, the administrative penalty is reduced or not  
21 imposed by the court, the court shall, after the judgment becomes  
22 final:

23 (1) order that the appropriate amount, plus accrued  
24 interest, be remitted to the person if the person paid the penalty;  
25 or

26 (2) order the release of the bond:

27 (A) if the person gave a supersedeas bond and the

1 penalty is not imposed; or

2 (B) after the person pays the penalty if the  
3 person gave a supersedeas bond and the penalty is reduced.

4 (b) The interest paid under Subsection (a)(1) is the rate  
5 charged on loans to depository institutions by the New York Federal  
6 Reserve Bank. The interest shall be paid for the period beginning  
7 on the date the penalty is paid and ending on the date the penalty is  
8 remitted.

9 Sec. 506.361. ADMINISTRATIVE PROCEDURE. A proceeding under  
10 this subchapter is subject to Chapter 2001, Government Code.

11 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

12 Sec. 506.401. INJUNCTION. (a) In addition to any other  
13 action authorized by law, the executive council may institute an  
14 action to enjoin a violation of this chapter, a law regulating the  
15 applicable profession, or an executive council rule.

16 (b) An action filed under this section must be filed in  
17 Travis County, the county of the defendant's residence, or the  
18 county in which any part of the violation occurred.

19 (c) The attorney general or the appropriate county or  
20 district attorney shall represent the executive council in an  
21 action under this section.

22 Sec. 506.402. CIVIL PENALTY. (a) A person who violates  
23 this chapter, a law regulating the applicable profession, or an  
24 executive council rule is liable to the state for a civil penalty  
25 not to exceed \$1,000 for each day of violation.

26 (b) At the request of the executive council, the attorney  
27 general shall bring an action to recover a civil penalty authorized

1 under this section.

2 Sec. 506.403. CEASE AND DESIST ORDER. (a) If it appears to  
3 the executive council that an unlicensed person is violating this  
4 chapter, a law regulating the applicable profession, or an  
5 executive council rule, the executive council, after notice and  
6 opportunity for a hearing, may issue a cease and desist order  
7 prohibiting the person from engaging in the activity.

8 (b) A violation of an order under this section constitutes  
9 grounds for imposing an administrative penalty under Subchapter H.

10 Sec. 506.404. MONITORING OF LICENSE HOLDER. The executive  
11 council by rule shall develop a system to monitor a license holder's  
12 compliance with applicable laws and executive council rules. Rules  
13 adopted under this section must include procedures to:

14 (1) monitor for compliance a license holder who is  
15 ordered by the executive council to perform certain acts; and

16 (2) identify and monitor each license holder who  
17 represents a risk to the public.

18 ARTICLE 2. TRANSFER OF LICENSING PROGRAMS TO TEXAS BEHAVIORAL  
19 HEALTH EXECUTIVE COUNCIL

20 SECTION 2.001. Sections 110.001(3) and (7), Occupations  
21 Code, are amended to read as follows:

22 (3) "Executive council" [~~"Department"~~] means the  
23 Texas Behavioral Health Executive Council [~~Department of State~~  
24 ~~Health Services~~].

25 (7) "Sex offender treatment provider" means a person,  
26 licensed by the executive council and recognized based on training  
27 and experience to provide assessment and treatment to adult sex

1 offenders or juveniles with sexual behavioral problems who have  
 2 been convicted, adjudicated, awarded deferred adjudication, or  
 3 referred by a state agency or a court, and licensed in this state to  
 4 practice as a physician, psychiatrist, psychologist, psychological  
 5 associate, provisionally licensed psychologist, licensed  
 6 professional counselor, licensed professional counselor intern,  
 7 licensed marriage and family therapist, licensed marriage and  
 8 family associate, licensed clinical social worker, licensed master  
 9 social worker under a clinical supervision plan approved by the  
 10 executive council [~~Texas State Board of Social Worker Examiners~~],  
 11 or advanced practice nurse recognized as a psychiatric clinical  
 12 nurse specialist or psychiatric mental health nurse practitioner,  
 13 who provides mental health or medical services for rehabilitation  
 14 of sex offenders.

15 SECTION 2.002. Section [110.051](#)(a), Occupations Code, is  
 16 amended to read as follows:

17 (a) The council is administratively attached to the  
 18 executive council [~~within the department~~]. The executive council  
 19 shall provide the staff and facilities necessary to perform the  
 20 duties of the council under this chapter or other law.

21 SECTION 2.003. Sections [110.053](#)(b), (c), and (d),  
 22 Occupations Code, are amended to read as follows:

23 (b) An officer, employee, or paid consultant of a Texas  
 24 trade association in the field of sex offender treatment may not be  
 25 a member of the council [~~and may not be an employee of the council~~  
 26 ~~who is exempt from the state's position classification plan or is~~  
 27 ~~compensated at or above the amount prescribed by the General~~

1 ~~Appropriations Act for step 1, salary group A17, of the position~~  
2 ~~classification salary schedule].~~

3 (c) A person who is the spouse of an officer, manager, or  
4 paid consultant of a Texas trade association in the field of sex  
5 offender treatment may not be a member of the council [~~and may not~~  
6 ~~be an employee of the council who is exempt from the state's~~  
7 ~~position classification plan or is compensated at or above the~~  
8 ~~amount prescribed by the General Appropriations Act for step 1,~~  
9 ~~salary group A17, of the position classification salary schedule].~~

10 (d) A person may not serve as a member of the council [~~or act~~  
11 ~~as the general counsel to the council]~~ if the person is required to  
12 register as a lobbyist under Chapter 305, Government Code, because  
13 of the person's activities for compensation on behalf of a  
14 profession related to the operation of the council.

15 SECTION 2.004. Section 110.056(c), Occupations Code, is  
16 amended to read as follows:

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

26 SECTION 2.005. Section 110.057(b), Occupations Code, is  
27 amended to read as follows:



(b) The council may hold additional meetings at the call of the presiding officer or as provided by executive council rule.

SECTION 2.006. Section 110.059, Occupations Code, is amended to read as follows:

Sec. 110.059. TRAINING. (a) A person who is appointed to and qualified for ~~[To be eligible to take]~~ office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the ~~[, a]~~ person completes ~~[appointed to the council must complete at least one course of]~~ a training program that complies with this section. ~~[If the person has not completed the training course at the time of the appointment, the person must complete the training program not later than six months after the date of appointment.]~~

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

(1) the law governing ~~[enabling legislation that created the]~~ council operations;

(2) the programs, ~~[operated by the council,~~  
[~~(3) the role and~~] functions, ~~[of the council,~~  
[~~(4) the~~] rules, and ~~[of the council, with an emphasis on the rules relating to disciplinary and investigatory authority,~~

[~~(5) the current~~] budget of ~~[for]~~ the council;

(3) the scope of and limitations on the rulemaking authority of the council;

(4) [~~(6)~~] the results of the most recent formal audit of the council;

(5) [~~(7)~~] the requirements of:

1                    (A) laws relating to open meetings, public  
2 information, administrative procedure, and disclosing conflicts  
3 [Chapters 551, 552, and 2001, Government Code,

4                    [~~(8)~~ the requirements of the conflict] of interest;  
5 and

6                    (B) other [laws and other] laws relating to the  
7 members of the council in performing their duties [public  
8 officials]; and

9                    (6) [~~(9)~~] any applicable ethics policies adopted by  
10 the council or the Texas Ethics Commission.

11            (c) A person appointed to the council is entitled to  
12 reimbursement, as provided by the General Appropriations Act, for  
13 the travel expenses incurred in attending the training program  
14 regardless of whether the attendance at the program occurs before  
15 or after the person qualified for office [~~, as provided by the~~  
16 ~~General Appropriations Act, as if the person were a member of the~~  
17 ~~council]~~.

18            (d) The executive director of the executive council shall  
19 create a training manual that includes the information required by  
20 Subsection (b). The executive director shall distribute a copy of  
21 the training manual annually to each council member. On receipt of  
22 the training manual, each council member shall sign and submit to  
23 the executive director a statement acknowledging receipt of the  
24 training manual.

25            SECTION 2.007. Subchapter D, Chapter 110, Occupations Code,  
26 is amended by adding Section 110.1515 to read as follows:

27            Sec. 110.1515. COUNCIL DUTIES. The council shall propose

1 to the executive council:

2 (1) rules regarding:

3 (A) the qualifications necessary to obtain a  
4 license, including rules limiting an applicant's eligibility for a  
5 license based on the applicant's criminal history;

6 (B) the scope of practice of and standards of  
7 care and ethical practice for sex offender treatment; and

8 (C) continuing education requirements for  
9 license holders; and

10 (2) a schedule of sanctions for violations of this  
11 chapter or rules adopted under this chapter.

12 SECTION 2.008. Chapter 110, Occupations Code, is amended by  
13 adding Subchapter D-1, and a heading is added to that subchapter to  
14 read as follows:

15 SUBCHAPTER D-1. EXECUTIVE COUNCIL POWERS AND DUTIES

16 SECTION 2.009. Sections 110.152, 110.154, 110.156,  
17 110.158, 110.161, 110.162, and 110.163, Occupations Code, are  
18 transferred to Subchapter D-1, Chapter 110, Occupations Code, as  
19 added by this Act, redesignated as Sections 110.171, 110.172,  
20 110.173, 110.174, 110.175, 110.176, and 110.177, Occupations Code,  
21 respectively, and amended to read as follows:

22 Sec. 110.171 [~~110.152~~]. LIST AND LICENSE REQUIREMENTS. The  
23 executive council shall:

24 (1) maintain a list of sex offender treatment  
25 providers under Section 110.175 [~~110.161~~]; and

26 (2) develop and implement by rule under Subchapter G:

27 (A) license requirements; and

(B) procedures for sex offender treatment providers.

Sec. 110.172 [~~110.154~~]. DISTRIBUTION OF MONEY. The executive council shall distribute money appropriated to the executive council by the legislature for that purpose to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of sex offender treatment programs.

Sec. 110.173 [~~110.156~~]. ADJUDICATION INFORMATION. (a) The executive council shall establish a uniform method of obtaining adjudication information. The uniform method must require that:

(1) a complete set of fingerprints, the complete name of the person being investigated, or other information necessary to conduct a criminal history background check be submitted to the Department of Public Safety or another law enforcement agency; and

(2) if fingerprints are submitted, the fingerprints be submitted to the Federal Bureau of Investigation for further information if a relevant disqualifying record or other substantive information is not obtained from a state or local law enforcement agency.

(b) A law enforcement agency may provide to the executive council information about the conviction or deferred adjudication of a person being investigated only if the information:

(1) is relevant to the person's current or proposed registration; and

(2) was collected in accordance with this section.

(c) The executive council is not entitled to adjudication

information that is not relevant. Adjudication information is relevant only if it relates to a conviction or deferred adjudication for:

(1) a sexual offense;

(2) murder, assault, battery, or any other offense involving personal injury or threat to another person; or

(3) a felony not listed in Subdivision (1) or (2).

(d) All adjudication information received by the executive council is privileged information and for the exclusive use of the executive council. The information may be released or otherwise disclosed to any other person or agency only:

(1) on court order; or

(2) with the consent of the person being investigated.

(e) The executive council by rule shall establish a method to collect and destroy adjudication information after the executive council makes a decision on the eligibility of the person for registration who is the subject of the information. The executive council shall destroy the adjudication information not later than the first anniversary of the date of the executive council's decision on the person's eligibility for registration.

Sec. 110.174 [~~110.158~~]. APPLICATION OF RULES [~~RULEMAKING~~].

~~[(a) The council may adopt rules consistent with this chapter. In adopting rules, the council shall:~~

~~[(1) consider the rules and procedures of the department; and~~

~~[(2) adopt procedural rules consistent with similar existing rules and procedures of the department.~~

1       ~~[(b)]~~ A sex offender treatment provider licensed under this  
2 chapter is subject to the rules of the executive council, in  
3 relation to the person's provision of sex offender treatment,  
4 rather than the rules of the licensing entity by which the provider  
5 is licensed or otherwise regulated. A sex offender treatment  
6 provider who acts in conformance with the rules, policies, and  
7 procedures of the executive council is not subject to any  
8 administrative sanction against the provider by the licensing  
9 entity by which the provider is licensed or otherwise regulated.

10       Sec. 110.175 [~~110.161~~]. PUBLICATION OF LIST. (a) The  
11 executive council shall prepare annually a list of sex offender  
12 treatment providers.

13       (b) The executive council by rule shall establish  
14 procedures for developing and distributing the list of sex offender  
15 treatment providers.

16       (c) The executive council, on request, shall make the list  
17 of sex offender treatment providers available on payment of a  
18 reasonable fee in an amount sufficient to cover the costs of  
19 printing and distribution.

20       Sec. 110.176 [~~110.162~~]. CONFIDENTIALITY REQUIRED. The  
21 executive council and the staff and consultants employed by the  
22 executive council shall keep confidential any record relating to  
23 the identity, examination, diagnosis, prognosis, or treatment of a  
24 sex offender.

25       Sec. 110.177 [~~110.163~~]. GRANTS AND DONATIONS. The  
26 executive council may apply for and accept on behalf of the state a  
27 grant or donation from any source to be used by the executive

council to perform its duties under this chapter.

SECTION 2.010. Subchapter D-1, Chapter 110, Occupations Code, as added by this Act, is amended by adding Section 110.178 to read as follows:

Sec. 110.178. DISCLOSURE OF CERTAIN INFORMATION.  
Notwithstanding Section 506.205, information and material compiled by the executive council in connection with a complaint or investigation under this chapter may be disclosed to the following entities in addition to the entities listed in Section 506.205(b):

(1) professional sex offender treatment provider licensing or disciplinary boards in other jurisdictions; or

(2) an approved peer assistance program, as defined by Section 467.001, Health and Safety Code.

SECTION 2.011. Sections 110.302(a) and (b), Occupations Code, are amended to read as follows:

(a) The executive council by rule shall develop procedures and eligibility and other requirements for issuance of a license under this chapter, including, if appropriate, requirements related to clinical practice experience and assessment, continuing education, and supervision.

(b) In developing the rules, the executive council shall coordinate with the Texas Department of Criminal Justice and the Texas Juvenile Justice Department.

SECTION 2.012. Section 110.303, Occupations Code, is amended to read as follows:

Sec. 110.303. LICENSE OF OUT-OF-STATE APPLICANTS. The executive council may waive any prerequisite to a license for an

1 applicant after reviewing the applicant's credentials and  
2 determining that the applicant holds a valid license from another  
3 state that has license requirements substantially equivalent to  
4 those of this state.

5 SECTION 2.013. Section 110.304, Occupations Code, is  
6 amended to read as follows:

7 Sec. 110.304. CONVICTION OR DEFERRED ADJUDICATION  
8 INFORMATION. The executive council may receive from a law  
9 enforcement agency information about the conviction or deferred  
10 adjudication of a person who has applied for a license or renewal of  
11 a license.

12 SECTION 2.014. Section 110.305(a), Occupations Code, is  
13 amended to read as follows:

14 (a) The executive council by rule may adopt a system under  
15 which licenses expire on various dates during the year.

16 SECTION 2.015. Section 110.309, Occupations Code, is  
17 amended to read as follows:

18 Sec. 110.309. DENIAL OF LICENSE. The executive council may  
19 deny an application for a license if:

20 (1) the executive council determines that a previous  
21 criminal conviction or deferred adjudication indicates the  
22 applicant is not qualified or suitable; or

23 (2) the applicant fails to provide the information  
24 described by Section 110.173(a)(1) [~~110.156(a)(1)~~].

25 SECTION 2.016. Section 110.351, Occupations Code, is  
26 amended to read as follows:

27 Sec. 110.351. DISCIPLINARY POWERS OF EXECUTIVE COUNCIL.



1 The executive council shall take disciplinary action under  
2 Subchapter G, Chapter 506, against ~~[revoke, suspend, or refuse to~~  
3 ~~renew a license, place on probation a person whose license has been~~  
4 ~~suspended, or reprimand]~~ a person who is licensed under this  
5 chapter if the person violates this chapter or a rule adopted under  
6 this chapter ~~[of the council]~~.

7 SECTION 2.017. Section 110.402(a), Occupations Code, is  
8 amended to read as follows:

9 (a) A person commits an offense if the person releases or  
10 discloses in violation of Section 110.173 ~~[110.156]~~ adjudication  
11 information received by the executive council.

12 SECTION 2.018. Section 501.002, Occupations Code, is  
13 amended by adding Subdivision (1-a) to read as follows:

14 (1-a) "Executive council" means the Texas Behavioral  
15 Health Executive Council.

16 SECTION 2.019. The heading to Section 501.053, Occupations  
17 Code, is amended to read as follows:

18 Sec. 501.053. MEMBERSHIP ~~[AND EMPLOYEE]~~ RESTRICTIONS.

19 SECTION 2.020. Sections 501.053(b) and (c), Occupations  
20 Code, are amended to read as follows:

21 (b) A person may not be a member of the board ~~[and may not be~~  
22 ~~a board employee employed in a "bona fide executive,~~  
23 ~~administrative, or professional capacity," as that phrase is used~~  
24 ~~for purposes of establishing an exemption to the overtime~~  
25 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
26 ~~U.S.C. Section 201 et seq.)]~~ if:

27 (1) the person is an officer, employee, or paid

1 consultant of a Texas trade association in the field of health  
2 services; or

3 (2) the person's spouse is an officer, manager, or paid  
4 consultant of a Texas trade association in the field of mental  
5 health.

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

11 SECTION 2.021. Section 501.055(c), Occupations Code, is  
12 amended to read as follows:

13 (c) If the executive director of the executive council has  
14 knowledge that a potential ground for removal exists, the executive  
15 director shall notify the presiding officer of the board of the  
16 potential ground. The presiding officer shall then notify the  
17 governor and the attorney general that a potential ground for  
18 removal exists. If the potential ground for removal involves the  
19 presiding officer, the executive director shall notify the next  
20 highest ranking officer of the board, who shall then notify the  
21 governor and the attorney general that a potential ground for  
22 removal exists.

23 SECTION 2.022. Section 501.059, Occupations Code, is  
24 amended by amending Subsection (b) and adding Subsection (d) to  
25 read as follows:

26 (b) The training program must provide the person with  
27 information regarding:

(1) the law governing board operations;

(2) [~~this chapter and~~] the programs, functions, rules, and budget of the board;

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

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

(5) [~~(3)~~] the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

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

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

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

SECTION 2.023. The heading to Subchapter D, Chapter 501, Occupations Code, is amended to read as follows:

SUBCHAPTER D. [~~BOARD~~] POWERS AND DUTIES

SECTION 2.024. The heading to Section 501.151, Occupations Code, is amended to read as follows:

1           Sec. 501.151. GENERAL POWERS AND DUTIES OF EXECUTIVE  
2 COUNCIL.

3           SECTION 2.025. Sections 501.151(c) and (d), Occupations  
4 Code, are amended to read as follows:

5           (c) The executive council [~~board~~] shall adopt and publish a  
6 code of ethics under this chapter.

7           (d) The executive council [~~board~~] may certify the specialty  
8 of health service providers under this chapter.

9           SECTION 2.026. Subchapter D, Chapter 501, Occupations Code,  
10 is amended by adding Section 501.1515 to read as follows:

11          Sec. 501.1515. BOARD DUTIES. The board shall propose to the  
12 executive council:

13               (1) rules regarding:

14                       (A) the qualifications necessary to obtain a  
15 license, including rules limiting an applicant's eligibility for a  
16 license based on the applicant's criminal history;

17                       (B) the scope of practice of and standards of  
18 care and ethical practice for psychology; and

19                       (C) continuing education requirements for  
20 license holders; and

21               (2) a schedule of sanctions for violations of this  
22 chapter or rules adopted under this chapter.

23           SECTION 2.027. Section 501.154, Occupations Code, is  
24 amended to read as follows:

25          Sec. 501.154. ANNUAL LISTING. (a) The executive council  
26 [~~board~~] shall publish annually a list of all psychologists licensed  
27 under this chapter. The list shall be provided in both alphabetical

1 and geographical arrangements.

2 (b) The list must contain the name and address of each  
3 psychologist and other information that the executive council  
4 ~~[board]~~ requires.

5 (c) The executive council ~~[board]~~ shall:

6 (1) mail a copy of the list to each person licensed  
7 under this chapter; and

8 (2) furnish copies to the public on request.

9 SECTION 2.028. Section 501.155, Occupations Code, is  
10 amended to read as follows:

11 Sec. 501.155. VOLUNTARY GUIDELINES. (a) The executive  
12 council ~~[board]~~ may cooperate with an agency that is not subject to  
13 this chapter to formulate voluntary guidelines to be observed in  
14 the training, activities, and supervision of persons who perform  
15 psychological services.

16 (b) Except as provided by Subsection (a), the executive  
17 council ~~[board]~~ may not adopt a rule that relates to the  
18 administration of an agency that is not subject to this chapter.

19 SECTION 2.029. Section 501.158, Occupations Code, is  
20 amended to read as follows:

21 Sec. 501.158. COMPETENCY REQUIREMENTS. (a) This section  
22 applies to a person who is:

23 (1) applying to take the ~~[provisional]~~ license  
24 examination;

25 (2) applying for a license or license renewal;

26 (3) currently licensed under this chapter ~~[by the~~  
27 ~~board]~~; or

1           (4) otherwise providing psychological services under  
2 a license approved by the executive council under this chapter  
3 ~~[board]~~.

4           (b) On a determination by the executive council ~~[board]~~  
5 based on the executive council's ~~[board's]~~ reasonable belief that a  
6 person is not physically and mentally competent to provide  
7 psychological services with reasonable skill and safety to patients  
8 or has a physical or mental disease or condition that would impair  
9 the person's competency to provide psychological services, the  
10 executive council ~~[board]~~ may request the person to submit to:

11               (1) a physical examination by a physician approved by  
12 the executive council ~~[board]~~; or

13               (2) a mental examination by a physician or  
14 psychologist approved by the executive council ~~[board]~~.

15           (c) The executive council ~~[board]~~ shall issue an order  
16 requiring a ~~[an applicant or]~~ person ~~[seeking renewal of a~~  
17 ~~provisional license]~~ who refuses to submit to an examination under  
18 this section to show cause for the person's refusal at a hearing on  
19 the order scheduled for not later than the 30th day after the date  
20 notice is served on the person. The executive council ~~[board]~~ shall  
21 provide notice under this section by personal service or by  
22 registered mail, return receipt requested.

23           (d) At the hearing, the person may appear in person and by  
24 counsel and present evidence to justify the person's refusal to  
25 submit to examination. After the hearing, the executive council  
26 ~~[board]~~ shall issue an order requiring the person to submit to  
27 examination under this section or withdrawing the request for the

1 examination.

2 (e) Unless the request is withdrawn, the executive council  
3 may take disciplinary action against a person who refuses to submit  
4 to the physical or mental examination [~~may not take the provisional~~  
5 ~~license examination or renew the person's license, as appropriate~~].

6 (f) An appeal from the executive council's [~~board's~~] order  
7 under this section is governed by Chapter 2001, Government Code.

8 SECTION 2.030. Section 501.252(a), Occupations Code, is  
9 amended to read as follows:

10 (a) To be licensed under this chapter, a person must apply  
11 to the executive council [~~board~~] for a license. The executive  
12 council [~~board~~] shall issue a license to an applicant who:

13 (1) is qualified for the license under Section  
14 501.2525 [~~complies with this section~~]; and

15 (2) pays the fee set by the executive council [~~board~~].

16 SECTION 2.031. Section 501.255, Occupations Code, is  
17 redesignated as Section 501.2525, Occupations Code, and amended to  
18 read as follows:

19 Sec. 501.2525 [~~501.255~~]. [~~PROVISIONAL~~] LICENSE  
20 [~~EXAMINATION~~] QUALIFICATIONS. (a) An applicant is qualified [~~may~~  
21 ~~take an examination~~] for a [~~provisional~~] license under this chapter  
22 if the applicant:

23 (1) has received:

24 (A) a doctoral degree in psychology from a  
25 regionally accredited educational institution conferred on or  
26 after January 1, 1979; or

27 (B) a doctoral degree in psychology, or the

substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training, from a regionally accredited educational institution conferred before January 1, 1979;

(2) except as provided by Section 501.253, has:

(A) at least two years of supervised experience in the field of psychological services; and

(B) passed any examination required by Section 501.256;

(3) has attained the age of majority;

~~[(3) has good moral character;]~~

(4) is physically and mentally competent to provide psychological services with reasonable skill and safety, as determined by the executive council ~~[board]~~;

(5) is not afflicted with a mental or physical disease or condition that would impair the applicant's competency to provide psychological services;

(6) has not been convicted of a crime involving moral turpitude or a felony;

(7) does not use drugs or alcohol to an extent that affects the applicant's professional competency;

(8) has not engaged in fraud or deceit in making the application; and

(9) except as provided by Section 501.263, has not:

(A) aided or abetted the practice of psychology by a person not licensed under this chapter in representing that the person is licensed under this chapter;

(B) represented that the applicant is licensed



under this chapter to practice psychology when the applicant is not licensed; or

(C) practiced psychology in this state without a license under this chapter or without being exempt under this chapter.

(b) In determining under Subsection (a)(1)(B) whether a degree is substantially equivalent to a doctoral degree in psychology, the executive council ~~[board]~~ shall consider whether, at the time the degree was conferred, the doctoral program met the prevailing standards for training in the area of psychology, including standards for training in clinical, school, and industrial counseling.

(c) For purposes of Subsection (a)(2)(A), experience is supervised only if the experience is supervised by a psychologist in the manner provided by the executive council's supervision guidelines. To determine the acceptability of an applicant's experience, the executive council may require documentary evidence of the quality, scope, and nature of the applicant's experience.

SECTION 2.032. Section [501.253](#), Occupations Code, is amended to read as follows:

Sec. 501.253. PROVISIONAL STATUS FOR CERTAIN APPLICANTS ~~[LICENSE]~~. (a) The executive council may ~~[board shall]~~ issue a ~~[provisional]~~ license with a provisional status to an applicant who has not satisfied the experience or examination requirements of Section 501.2525(a)(2) but is otherwise qualified for the license under Section 501.2525 ~~[+]~~

~~[(1) passed the examinations prescribed by the board,~~

~~[(2) satisfied the preliminary requirements of Sections 501.254 and 501.255; and~~

~~[(3) paid the fee for a provisional license].~~

(b) A ~~[provisional]~~ license holder described by Subsection (a) is entitled to practice psychology under the supervision of a psychologist to meet the requirements for issuance of a license under Section 501.2525, except that if the ~~[501.252. A~~ ~~provisional]~~ license holder ~~[who]~~ is licensed in another state to independently practice psychology and is in good standing in that state, the license holder ~~[and who seeks a license in this state]~~ is entitled to practice psychology without the supervision of a psychologist ~~[during the time that the board is processing the person's application for a license]~~.

(c) The executive council ~~[board]~~ shall adopt rules that apply to a ~~[provisional]~~ license holder described by Subsection (a) ~~[holders]~~ identifying:

(1) the activities that the license holder ~~[holders]~~ may engage in; and

(2) services that may be provided by the license holder ~~[holders]~~.

(d) The executive council ~~[board]~~ may refuse to renew a ~~[the~~ ~~provisional]~~ license issued under Subsection (a) if the license holder ~~[of a person who]~~ does not meet the requirements prescribed by Section 501.2525(a)(2) ~~[501.255]~~.

(e) The executive council ~~[board]~~ may not restrict the issuance of a license ~~[or provisional license]~~ to an applicant who is licensed in another state to independently practice psychology

and is in good standing in that state based on the number of years the applicant has been licensed in good standing in that state.

~~[(f) If an applicant who is licensed in another state to independently practice psychology and is in good standing in that state presents credentials from a national accreditation organization to the board and the board determines that the requirements for obtaining those credentials from that organization are sufficient to protect the public, the board may issue a provisional license to the applicant. An applicant who obtains a provisional license under this subsection must have passed the examination described by Section 501.256(b)(2).]~~

SECTION 2.033. Sections 501.256(a), (b), (c), and (d), Occupations Code, are amended to read as follows:

(a) The executive council ~~[board]~~ shall administer to qualified applicants at least annually any ~~[the oral and]~~ written examination required by executive council ~~[board]~~ rules. An ~~[The board shall have the written portion of the]~~ examination must be ~~[if any]~~ validated by an independent testing professional.

(b) The executive council ~~[board]~~ shall determine the subject and scope of each examination ~~[the examinations]~~ and establish appropriate fees for examinations administered. The examination must test the applicant's knowledge of:

- (1) the discipline and profession of psychology; and
- (2) the laws and rules governing the profession of psychology in this state.

(c) The executive council ~~[board]~~ may waive the discipline and professional segment of the examination requirement for an

1 applicant who:

2 (1) is a specialist of the American Board of  
3 Professional Psychology; or

4 (2) in the executive council's ~~[board's]~~ judgment, has  
5 demonstrated competence in the areas covered by the examination.

6 (d) The contents of the examination described by Subsection  
7 (b)(2) are the jurisprudence examination. The executive council  
8 ~~[board]~~ shall administer and each applicant must pass the  
9 jurisprudence examination before the executive council ~~[board]~~ may  
10 issue a ~~[provisional]~~ license.

11 SECTION 2.034. Section [501.259](#), Occupations Code, is  
12 amended to read as follows:

13 Sec. 501.259. LICENSING OF PSYCHOLOGICAL ASSOCIATE. (a)  
14 The executive council ~~[board]~~ shall set standards for the issuance  
15 of licenses to psychological personnel who hold a master's degree  
16 from an accredited university or college in a program that is  
17 primarily psychological in nature.

18 (b) The executive council ~~[board]~~ shall designate a person  
19 who holds a license authorized by this section by a title that  
20 includes the adjective "psychological" followed by a noun such as  
21 "associate," "assistant," "examiner," or "technician."

22 SECTION 2.035. Sections [501.260](#)(a) and (b), Occupations  
23 Code, are amended to read as follows:

24 (a) The executive council ~~[board]~~ by rule shall issue a  
25 license to a licensed specialist in school psychology. A license  
26 issued under this section constitutes the appropriate credential  
27 for a person who provides psychological services as required by

Section 21.003(b), Education Code.

(b) The executive council [~~board~~] shall set the standards to qualify for a license under this section. The standards must include:

(1) satisfaction of minimum recognized graduate degree requirements;

(2) completion of graduate course work at a regionally accredited institution of higher education in:

(A) psychological foundations;

(B) educational foundations;

(C) interventions;

(D) assessments; and

(E) professional issues and ethics;

(3) completion of at least 1,200 hours of supervised experience;

(4) receipt of a passing score on a nationally recognized qualifying examination determined to be appropriate by the executive council [~~board~~] and on any other examination required by the executive council [~~board~~]; and

(5) satisfaction of the requirements under Sections 501.2525(a)(3)-(9), other than the degree requirements [~~, for an applicant to take an examination for a provisional license~~].

SECTION 2.036. Section 501.262, Occupations Code, is amended to read as follows:

Sec. 501.262. RECIPROCAL LICENSE. The executive council [~~board~~] may enter into and implement agreements with other jurisdictions for the issuance of a license by reciprocity if the

1 other jurisdiction's requirements for licensing, certification, or  
2 registration are substantially equal to the requirements of this  
3 chapter.

4 SECTION 2.037. Sections 501.263(a), (b), (c), and (e),  
5 Occupations Code, are amended to read as follows:

6 (a) The executive council [~~board~~] may issue a temporary  
7 license to an applicant seeking to practice in this state for a  
8 limited time and limited purpose if the applicant:

9 (1) pays the required application fee;

10 (2) submits an application to the executive council  
11 [~~board~~] in the form prescribed by the executive council [~~board~~];

12 (3) is licensed, certified, or registered as a  
13 psychologist or psychological associate by another state having  
14 requirements substantially equal to those prescribed by this  
15 chapter;

16 (4) is in good standing with the regulatory agency of  
17 the jurisdiction in which the person is licensed, certified, or  
18 registered;

19 (5) is supervised by a person licensed [~~by the board~~]  
20 under this chapter with whom the temporary license holder may  
21 consult during the time the person holds a temporary license; and

22 (6) has passed an examination recognized by the  
23 executive council [~~board~~] as equivalent to the examination required  
24 [~~by the board~~] for a permanent license under this chapter.

25 (b) A temporary license is valid only for the period  
26 specified by the executive council [~~board~~] and for the limited  
27 purpose approved by the executive council [~~board~~].

(c) The executive council [~~board~~] may adopt rules to issue a temporary license to a person who holds a license or the equivalent from another country.

(e) A person holding a temporary license issued under this chapter shall display a sign indicating that the license is temporary. The sign must be approved by the executive council [~~board~~] and displayed in every room in which the person provides psychological services.

SECTION 2.038. Section 501.264(a), Occupations Code, is amended to read as follows:

(a) A psychologist may place the psychologist's license on inactive status by applying to the executive council [~~board~~] and paying a fee established by the executive council [~~board~~].

SECTION 2.039. Section 501.301, Occupations Code, is amended to read as follows:

Sec. 501.301. LICENSE EXPIRATION AND RENEWAL. (a) The executive council shall adopt rules providing for the expiration and renewal of a [A] license issued under this chapter. The rules must require a license be renewed annually or biennially [expires on December 31 of the year following the date the license is issued or renewed. A license of a psychological associate expires on May 31 of the year following the date the license is issued or renewed].

(b) The executive council [~~board~~] by rule may adopt a system under which licenses expire on various dates during the year. For a year in which the expiration date is changed, the executive council [~~board~~] shall prorate the licensing fee so that each license holder pays only the portion of the fee that is allocable to the number of

1 months during which the license is valid. On renewal of the license  
2 on the new expiration date, the entire licensing fee is payable.

3 SECTION 2.040. Sections 501.351(a) and (c), Occupations  
4 Code, are amended to read as follows:

5 (a) A psychologist licensed under this chapter may delegate  
6 to a ~~[provisionally licensed]~~ psychologist who holds a license  
7 described by Section 501.253, a newly licensed psychologist who is  
8 not eligible for managed care panels, a person who holds a temporary  
9 license issued under Section 501.263, or a person enrolled in a  
10 formal internship as provided by executive council ~~[board]~~ rules ~~[,~~  
11 ~~and a person who satisfies Section 501.255(a) and is in the process~~  
12 ~~of acquiring the supervised experience required by Section~~  
13 ~~501.252(b)(2)]~~ any psychological test or service that a reasonable  
14 and prudent psychologist could delegate within the scope of sound  
15 psychological judgment if the psychologist determines that:

16 (1) the test or service can be properly and safely  
17 performed by the person;

18 (2) the person does not represent to the public that  
19 the person is authorized to practice psychology; and

20 (3) the test or service will be performed in the  
21 customary manner and in compliance with any other law.

22 (c) The executive council ~~[board]~~ may determine whether:

23 (1) a psychological test or service may be properly  
24 and safely delegated under this section; and

25 (2) a delegated act constitutes the practice of  
26 psychology under this chapter.

27 SECTION 2.041. Section 501.401, Occupations Code, is



1 amended to read as follows:

2       Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION.       The  
3 executive council [board] shall take disciplinary action under  
4 Subchapter G, Chapter 506, against [~~revoke or suspend a holder's~~  
5 ~~license, place on probation a person whose license has been~~  
6 ~~suspended, or reprimand~~] a license holder who:

7               (1) violates this chapter or a rule adopted under this  
8 chapter [~~by the board~~];

9               (2) is convicted of a felony or of any offense that  
10 would be a felony under the laws of this state, or of a violation of  
11 a law involving moral turpitude;

12              (3) uses drugs or alcohol to an extent that affects the  
13 person's professional competency;

14              (4) engages in fraud or deceit in connection with  
15 services provided as a psychologist;

16              (5) except as provided by Section 501.263:

17                      (A) aids or abets the practice of psychology by a  
18 person not licensed under this chapter in representing that the  
19 person is licensed under this chapter;

20                      (B) represents that the person is licensed under  
21 this chapter to practice psychology when the person is not  
22 licensed; or

23                      (C) practices psychology in this state without a  
24 license under this chapter or without being qualified for an  
25 exemption under Section 501.004; or

26              (6) commits an act for which liability exists under  
27 Chapter 81, Civil Practice and Remedies Code.

SECTION 2.042. Section 501.407, Occupations Code, is amended to read as follows:

Sec. 501.407. REMEDIAL CONTINUING EDUCATION. The executive council [~~board~~] may require a license holder who violates this chapter to participate in a continuing education program. The executive council [~~board~~] shall specify the continuing education program that the person may attend and the number of hours that the person must complete to fulfill the requirements of this section.

SECTION 2.043. Section 501.408, Occupations Code, is amended to read as follows:

Sec. 501.408. CORRECTIVE ADVERTISING. The executive council [~~board~~] may order corrective advertising if a psychologist, individually or under an assumed name, engages in false, misleading, or deceptive advertising.

SECTION 2.044. Subchapter I, Chapter 501, Occupations Code, is amended by adding Section 501.411 to read as follows:

Sec. 501.411. REMEDIAL PLAN. (a) The executive council may issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under this chapter.

(b) The executive council by rule shall establish the types of complaints or violations that may be resolved with a remedial plan. The rules must provide that a remedial plan may not be imposed to resolve a complaint:

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

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

1        (c) A remedial plan may not contain a provision that:

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

4                (2) assesses an administrative penalty against a  
5 person.

6        (d) The executive council may not issue a remedial plan to  
7 resolve a complaint against a license holder if the license holder  
8 has previously entered into a remedial plan with the executive  
9 council for the resolution of a different complaint filed under  
10 this chapter.

11        (e) The executive council may assess a fee against a license  
12 holder participating in a remedial plan in an amount necessary to  
13 recover the costs of administering the plan.

14        SECTION 2.045. Section 501.505, Occupations Code, is  
15 amended to read as follows:

16        Sec. 501.505. OPTION TO ORDER REFUND. (a) Under an  
17 agreement resulting from an informal settlement conference, the  
18 executive council [~~board~~] may order a license holder to refund to  
19 the person who paid for the psychological services at issue an  
20 amount not to exceed the amount the person paid to the license  
21 holder for a service regulated by this chapter instead of or in  
22 addition to imposing an administrative penalty under this chapter.

23        (b) The executive council [~~board~~] may not include an  
24 estimation of other damages or harm in a refund order.

25        SECTION 2.046. Chapter 501, Occupations Code, is amended by  
26 adding Subchapter L to read as follows:

27        SUBCHAPTER L. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

1       Sec. 501.601. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. The  
2 Psychology Interjurisdictional Compact is enacted and entered into  
3 as follows:

4               PSYCHOLOGY INTERJURISDICTIONAL COMPACT

5                       ARTICLE I. PURPOSE

6 Whereas, states license psychologists, in order to protect the  
7 public through verification of education, training and experience  
8 and ensure accountability for professional practice; and

9 Whereas, this Compact is intended to regulate the day to day  
10 practice of telepsychology (i.e. the provision of psychological  
11 services using telecommunication technologies) by psychologists  
12 across state boundaries in the performance of their psychological  
13 practice as assigned by an appropriate authority; and

14 Whereas, this Compact is intended to regulate the temporary  
15 in-person, face-to-face practice of psychology by psychologists  
16 across state boundaries for 30 days within a calendar year in the  
17 performance of their psychological practice as assigned by an  
18 appropriate authority;

19 Whereas, this Compact is intended to authorize State Psychology  
20 Regulatory Authorities to afford legal recognition, in a manner  
21 consistent with the terms of the Compact, to psychologists licensed  
22 in another state;

23 Whereas, this Compact recognizes that states have a vested interest  
24 in protecting the public's health and safety through their  
25 licensing and regulation of psychologists and that such state  
26 regulation will best protect public health and safety;

27 Whereas, this Compact does not apply when a psychologist is

1 licensed in both the Home and Receiving States; and

2 Whereas, this Compact does not apply to permanent in-person,  
3 face-to-face practice, it does allow for authorization of temporary  
4 psychological practice.

5 Consistent with these principles, this Compact is designed to  
6 achieve the following purposes and objectives:

7 1. Increase public access to professional psychological  
8 services by allowing for telepsychological practice across  
9 state lines as well as temporary in-person, face-to-face  
10 services into a state which the psychologist is not licensed to  
11 practice psychology;

12 2. Enhance the states' ability to protect the public's  
13 health and safety, especially client/patient safety;

14 3. Encourage the cooperation of Compact States in the  
15 areas of psychology licensure and regulation;

16 4. Facilitate the exchange of information between  
17 Compact States regarding psychologist licensure, adverse  
18 actions and disciplinary history;

19 5. Promote compliance with the laws governing  
20 psychological practice in each Compact State; and

21 6. Invest all Compact States with the authority to hold  
22 licensed psychologists accountable through the mutual  
23 recognition of Compact State licenses.

24 ARTICLE II. DEFINITIONS

25 A. "Adverse Action" means: Any action taken by a State Psychology  
26 Regulatory Authority which finds a violation of a statute or  
27 regulation that is identified by the State Psychology

1 Regulatory Authority as discipline and is a matter of public  
2 record.

3 B. "Association of State and Provincial Psychology Boards  
4 (ASPPB)" means: the recognized membership organization  
5 composed of State and Provincial Psychology Regulatory  
6 Authorities responsible for the licensure and registration of  
7 psychologists throughout the United States and Canada.

8 C. "Authority to Practice Interjurisdictional Telepsychology"  
9 means: a licensed psychologist's authority to practice  
10 telepsychology, within the limits authorized under this  
11 Compact, in another Compact State.

12 D. "Bylaws" means: those Bylaws established by the Psychology  
13 Interjurisdictional Compact Commission pursuant to Section X  
14 for its governance, or for directing and controlling its  
15 actions and conduct.

16 E. "Client/Patient" means: the recipient of psychological  
17 services, whether psychological services are delivered in the  
18 context of healthcare, corporate, supervision, and/or  
19 consulting services.

20 F. "Commissioner" means: the voting representative appointed by  
21 each State Psychology Regulatory Authority pursuant to Section  
22 X.

23 G. "Compact State" means: a state, the District of Columbia, or  
24 United States territory that has enacted this Compact  
25 legislation and which has not withdrawn pursuant to Article  
26 XIII, Section C or been terminated pursuant to Article XII,  
27 Section B.

1 H. "Coordinated Licensure Information System" also referred to as  
2 "Coordinated Database" means: an integrated process for  
3 collecting, storing, and sharing information on psychologists'  
4 licensure and enforcement activities related to psychology  
5 licensure laws, which is administered by the recognized  
6 membership organization composed of State and Provincial  
7 Psychology Regulatory Authorities.

8 I. "Confidentiality" means: the principle that data or  
9 information is not made available or disclosed to unauthorized  
10 persons and/or processes.

11 J. "Day" means: any part of a day in which psychological work is  
12 performed.

13 K. "Distant State" means: the Compact State where a psychologist  
14 is physically present (not through the use of  
15 telecommunications technologies), to provide temporary  
16 in-person, face-to-face psychological services.

17 L. "E.Passport" means: a certificate issued by the Association of  
18 State and Provincial Psychology Boards (ASPPB) that promotes  
19 the standardization in the criteria of interjurisdictional  
20 telepsychology practice and facilitates the process for  
21 licensed psychologists to provide telepsychological services  
22 across state lines.

23 M. "Executive Board" means: a group of directors elected or  
24 appointed to act on behalf of, and within the powers granted to  
25 them by, the Commission.

26 N. "Home State" means: a Compact State where a psychologist is  
27 licensed to practice psychology. If the psychologist is

1 licensed in more than one Compact State and is practicing under  
2 the Authorization to Practice Interjurisdictional  
3 Telepsychology, the Home State is the Compact State where the  
4 psychologist is physically present when the telepsychological  
5 services are delivered. If the psychologist is licensed in more  
6 than one Compact State and is practicing under the Temporary  
7 Authorization to Practice, the Home State is any Compact State  
8 where the psychologist is licensed.

9 O. "Identity History Summary" means: a summary of information  
10 retained by the FBI, or other designee with similar authority,  
11 in connection with arrests and, in some instances, federal  
12 employment, naturalization, or military service.

13 P. "In-Person, Face-to-Face" means: interactions in which the  
14 psychologist and the client/patient are in the same physical  
15 space and which does not include interactions that may occur  
16 through the use of telecommunication technologies.

17 Q. "Interjurisdictional Practice Certificate (IPC)" means: a  
18 certificate issued by the Association of State and Provincial  
19 Psychology Boards (ASPPB) that grants temporary authority to  
20 practice based on notification to the State Psychology  
21 Regulatory Authority of intention to practice temporarily, and  
22 verification of one's qualifications for such practice.

23 R. "License" means: authorization by a State Psychology  
24 Regulatory Authority to engage in the independent practice of  
25 psychology, which would be unlawful without the authorization.

26 S. "Non-Compact State" means: any State which is not at the time a  
27 Compact State.



1 T. "Psychologist" means: an individual licensed for the  
2 independent practice of psychology.

3 U. "Psychology Interjurisdictional Compact Commission" also  
4 referred to as "Commission" means: the national administration  
5 of which all Compact States are members.

6 V. "Receiving State" means: a Compact State where the  
7 client/patient is physically located when the  
8 telepsychological services are delivered.

9 W. "Rule" means: a written statement by the Psychology  
10 Interjurisdictional Compact Commission promulgated pursuant  
11 to Section XI of the Compact that is of general applicability,  
12 implements, interprets, or prescribes a policy or provision of  
13 the Compact, or an organizational, procedural, or practice  
14 requirement of the Commission and has the force and effect of  
15 statutory law in a Compact State, and includes the amendment,  
16 repeal or suspension of an existing rule.

17 X. "Significant Investigatory Information" means:

18 1. investigative information that a State Psychology  
19 Regulatory Authority, after a preliminary inquiry that  
20 includes notification and an opportunity to respond if  
21 required by state law, has reason to believe, if proven true,  
22 would indicate more than a violation of state statute or ethics  
23 code that would be considered more substantial than minor  
24 infraction; or

25 2. investigative information that indicates that the  
26 psychologist represents an immediate threat to public health  
27 and safety regardless of whether the psychologist has been

1 notified and/or had an opportunity to respond.

2 Y. "State" means: a state, commonwealth, territory, or possession  
3 of the United States, the District of Columbia.

4 Z. "State Psychology Regulatory Authority" means: the Board,  
5 office or other agency with the legislative mandate to license  
6 and regulate the practice of psychology.

7 AA. "Telepsychology" means: the provision of psychological  
8 services using telecommunication technologies.

9 BB. "Temporary Authorization to Practice" means: a licensed  
10 psychologist's authority to conduct temporary in-person,  
11 face-to-face practice, within the limits authorized under this  
12 Compact, in another Compact State.

13 CC. "Temporary In-Person, Face-to-Face Practice" means: where a  
14 psychologist is physically present (not through the use of  
15 telecommunications technologies), in the Distant State to  
16 provide for the practice of psychology for 30 days within a  
17 calendar year and based on notification to the Distant State.

18 ARTICLE III. HOME STATE LICENSURE

19 A. The Home State shall be a Compact State where a psychologist is  
20 licensed to practice psychology.

21 B. A psychologist may hold one or more Compact State licenses at a  
22 time. If the psychologist is licensed in more than one Compact  
23 State, the Home State is the Compact State where the  
24 psychologist is physically present when the services are  
25 delivered as authorized by the Authority to Practice  
26 Interjurisdictional Telepsychology under the terms of this  
27 Compact.

1 C. Any Compact State may require a psychologist not previously  
2 licensed in a Compact State to obtain and retain a license to be  
3 authorized to practice in the Compact State under  
4 circumstances not authorized by the Authority to Practice  
5 Interjurisdictional Telepsychology under the terms of this  
6 Compact.

7 D. Any Compact State may require a psychologist to obtain and  
8 retain a license to be authorized to practice in a Compact  
9 State under circumstances not authorized by Temporary  
10 Authorization to Practice under the terms of this Compact.

11 E. A Home State's license authorizes a psychologist to practice in  
12 a Receiving State under the Authority to Practice  
13 Interjurisdictional Telepsychology only if the Compact State:

14 1. Currently requires the psychologist to hold an active  
15 E.Passport;

16 2. Has a mechanism in place for receiving and investigating  
17 complaints about licensed individuals;

18 3. Notifies the Commission, in compliance with the terms  
19 herein, of any adverse action or significant investigatory  
20 information regarding a licensed individual;

21 4. Requires an Identity History Summary of all applicants at  
22 initial licensure, including the use of the results of  
23 fingerprints or other biometric data checks compliant with  
24 the requirements of the Federal Bureau of Investigation  
25 FBI, or other designee with similar authority, no later  
26 than ten years after activation of the Compact; and

27 5. Complies with the Bylaws and Rules of the Commission.

1 F. A Home State's license grants Temporary Authorization to  
2 Practice to a psychologist in a Distant State only if the  
3 Compact State:

- 4 1. Currently requires the psychologist to hold an active IPC;
- 5 2. Has a mechanism in place for receiving and investigating  
6 complaints about licensed individuals;
- 7 3. Notifies the Commission, in compliance with the terms  
8 herein, of any adverse action or significant investigatory  
9 information regarding a licensed individual;
- 10 4. Requires an Identity History Summary of all applicants at  
11 initial licensure, including the use of the results of  
12 fingerprints or other biometric data checks compliant with  
13 the requirements of the Federal Bureau of Investigation  
14 FBI, or other designee with similar authority, no later  
15 than ten years after activation of the Compact; and
- 16 5. Complies with the Bylaws and Rules of the Commission.

17 ARTICLE IV. COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

18 A. Compact States shall recognize the right of a psychologist,  
19 licensed in a Compact State in conformance with Article III, to  
20 practice telepsychology in other Compact States (Receiving  
21 States) in which the psychologist is not licensed, under the  
22 Authority to Practice Interjurisdictional Telepsychology as  
23 provided in the Compact.

24 B. To exercise the Authority to Practice Interjurisdictional  
25 Telepsychology under the terms and provisions of this Compact,  
26 a psychologist licensed to practice in a Compact State must:

- 27 1. Hold a graduate degree in psychology from an institute of

1 higher education that was, at the time the degree was  
2 awarded:

3 a. Regionally accredited by an accrediting body  
4 recognized by the U.S. Department of Education to  
5 grant graduate degrees, OR authorized by Provincial  
6 Statute or Royal Charter to grant doctoral degrees; OR  
7 b. A foreign college or university deemed to be  
8 equivalent to 1 (a) above by a foreign credential  
9 evaluation service that is a member of the National  
10 Association of Credential Evaluation Services (NACES)  
11 or by a recognized foreign credential evaluation  
12 service; AND

13 2. Hold a graduate degree in psychology that meets the  
14 following criteria:

15 a. The program, wherever it may be administratively  
16 housed, must be clearly identified and labeled as a  
17 psychology program. Such a program must specify in  
18 pertinent institutional catalogues and brochures its  
19 intent to educate and train professional  
20 psychologists;

21 b. The psychology program must stand as a recognizable,  
22 coherent, organizational entity within the  
23 institution;

24 c. There must be a clear authority and primary  
25 responsibility for the core and specialty areas  
26 whether or not the program cuts across administrative  
27 lines;

- d. The program must consist of an integrated, organized sequence of study;
  - e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
  - f. The designated director of the program must be a psychologist and a member of the core faculty;
  - g. The program must have an identifiable body of students who are matriculated in that program for a degree;
  - h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
  - i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;
  - j. The program includes an acceptable residency as defined by the Rules of the Commission.
3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
  4. Have no history of adverse action that violate the Rules of the Commission;
  5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;
  6. Possess a current, active E.Passport;
  7. Provide attestations in regard to areas of intended

1 practice, conformity with standards of practice,  
2 competence in telepsychology technology; criminal  
3 background; and knowledge and adherence to legal  
4 requirements in the home and receiving states, and provide  
5 a release of information to allow for primary source  
6 verification in a manner specified by the Commission; and  
7 8. Meet other criteria as defined by the Rules of the  
8 Commission.

9 C. The Home State maintains authority over the license of any  
10 psychologist practicing into a Receiving State under the  
11 Authority to Practice Interjurisdictional Telepsychology.

12 D. A psychologist practicing into a Receiving State under the  
13 Authority to Practice Interjurisdictional Telepsychology will  
14 be subject to the Receiving State's scope of practice. A  
15 Receiving State may, in accordance with that state's due  
16 process law, limit or revoke a psychologist's Authority to  
17 Practice Interjurisdictional Telepsychology in the Receiving  
18 State and may take any other necessary actions under the  
19 Receiving State's applicable law to protect the health and  
20 safety of the Receiving State's citizens. If a Receiving State  
21 takes action, the state shall promptly notify the Home State  
22 and the Commission.

23 E. If a psychologist's license in any Home State, another Compact  
24 State, or any Authority to Practice Interjurisdictional  
25 Telepsychology in any Receiving State, is restricted,  
26 suspended or otherwise limited, the E.Passport shall be  
27 revoked and therefore the psychologist shall not be eligible to

1 practice telepsychology in a Compact State under the Authority  
2 to Practice Interjurisdictional Telepsychology.

3 ARTICLE V. COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

4 A. Compact States shall also recognize the right of a  
5 psychologist, licensed in a Compact State in conformance with  
6 Article III, to practice temporarily in other Compact States  
7 (Distant States) in which the psychologist is not licensed, as  
8 provided in the Compact.

9 B. To exercise the Temporary Authorization to Practice under the  
10 terms and provisions of this Compact, a psychologist licensed  
11 to practice in a Compact State must:

12 1. Hold a graduate degree in psychology from an institute of  
13 higher education that was, at the time the degree was  
14 awarded:

15 a. Regionally accredited by an accrediting body  
16 recognized by the U.S. Department of Education to  
17 grant graduate degrees, OR authorized by Provincial  
18 Statute or Royal Charter to grant doctoral degrees; OR

19 b. A foreign college or university deemed to be  
20 equivalent to 1 (a) above by a foreign credential  
21 evaluation service that is a member of the National  
22 Association of Credential Evaluation Services (NACES)  
23 or by a recognized foreign credential evaluation  
24 service; AND

25 2. Hold a graduate degree in psychology that meets the  
26 following criteria:

27 a. The program, wherever it may be administratively



1       housed, must be clearly identified and labeled as a  
2       psychology program. Such a program must specify in  
3       pertinent institutional catalogues and brochures its  
4       intent to educate and train professional  
5       psychologists;

6       b. The psychology program must stand as a recognizable,  
7       coherent, organizational entity within the  
8       institution;

9       c. There must be a clear authority and primary  
10       responsibility for the core and specialty areas  
11       whether or not the program cuts across administrative  
12       lines;

13       d. The program must consist of an integrated, organized  
14       sequence of study;

15       e. There must be an identifiable psychology faculty  
16       sufficient in size and breadth to carry out its  
17       responsibilities;

18       f. The designated director of the program must be a  
19       psychologist and a member of the core faculty;

20       g. The program must have an identifiable body of students  
21       who are matriculated in that program for a degree;

22       h. The program must include supervised practicum,  
23       internship, or field training appropriate to the  
24       practice of psychology;

25       i. The curriculum shall encompass a minimum of three  
26       academic years of full-time graduate study for  
27       doctoral degrees and a minimum of one academic year of

full-time graduate study for master's degree;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. No history of adverse action that violate the Rules of the Commission;

5. No criminal record history that violates the Rules of the Commission;

6. Possess a current, active IPC;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.

D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and

1 safety of the Distant State's citizens. If a Distant State  
2 takes action, the state shall promptly notify the Home State  
3 and the Commission.

4 E. If a psychologist's license in any Home State, another Compact  
5 State, or any Temporary Authorization to Practice in any  
6 Distant State, is restricted, suspended or otherwise limited,  
7 the IPC shall be revoked and therefore the psychologist shall  
8 not be eligible to practice in a Compact State under the  
9 Temporary Authorization to Practice.

10 ARTICLE VI. CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING  
11 STATE

12 A. A psychologist may practice in a Receiving State under the  
13 Authority to Practice Interjurisdictional Telepsychology only  
14 in the performance of the scope of practice for psychology as  
15 assigned by an appropriate State Psychology Regulatory  
16 Authority, as defined in the Rules of the Commission, and under  
17 the following circumstances:

- 18 1. The psychologist initiates a client/patient contact in a  
19 Home State via telecommunications technologies with a  
20 client/patient in a Receiving State;  
21 2. Other conditions regarding telepsychology as determined by  
22 Rules promulgated by the Commission.

23 ARTICLE VII. ADVERSE ACTIONS

24 A. A Home State shall have the power to impose adverse action  
25 against a psychologist's license issued by the Home State. A  
26 Distant State shall have the power to take adverse action on a  
27 psychologist's Temporary Authorization to Practice within that

1     Distant State.

2     B. A Receiving State may take adverse action on a psychologist's  
3     Authority to Practice Interjurisdictional Telepsychology  
4     within that Receiving State. A Home State may take adverse  
5     action against a psychologist based on an adverse action taken  
6     by a Distant State regarding temporary in-person, face-to-face  
7     practice.

8     C. If a Home State takes adverse action against a psychologist's  
9     license, that psychologist's Authority to Practice  
10    Interjurisdictional Telepsychology is terminated and the  
11    E.Passport is revoked. Furthermore, that psychologist's  
12    Temporary Authorization to Practice is terminated and the IPC  
13    is revoked.

14    1. All Home State disciplinary orders which impose adverse  
15    action shall be reported to the Commission in accordance  
16    with the Rules promulgated by the Commission. A Compact  
17    State shall report adverse actions in accordance with the  
18    Rules of the Commission.

19    2. In the event discipline is reported on a psychologist, the  
20    psychologist will not be eligible for telepsychology or  
21    temporary in-person, face-to-face practice in accordance  
22    with the Rules of the Commission.

23    3. Other actions may be imposed as determined by the Rules  
24    promulgated by the Commission.

25    D. A Home State's Psychology Regulatory Authority shall  
26    investigate and take appropriate action with respect to  
27    reported inappropriate conduct engaged in by a licensee which

occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.

E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C, above.

1 ARTICLE VIII. ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S  
2 PSYCHOLOGY REGULATORY AUTHORITY

3 A. In addition to any other powers granted under state law, a  
4 Compact State's Psychology Regulatory Authority shall have the  
5 authority under this Compact to:

6 1. Issue subpoenas, for both hearings and investigations,  
7 which require the attendance and testimony of witnesses  
8 and the production of evidence. Subpoenas issued by a  
9 Compact State's Psychology Regulatory Authority for the  
10 attendance and testimony of witnesses, and/or the  
11 production of evidence from another Compact State shall be  
12 enforced in the latter state by any court of competent  
13 jurisdiction, according to that court's practice and  
14 procedure in considering subpoenas issued in its own  
15 proceedings. The issuing State Psychology Regulatory  
16 Authority shall pay any witness fees, travel expenses,  
17 mileage and other fees required by the service statutes of  
18 the state wherethe witnesses and/or evidence are located;  
19 and

20 2. Issue cease and desist and/or injunctive relief orders to  
21 revoke a psychologist's Authority to Practice  
22 Interjurisdictional Telepsychology and/or Temporary  
23 Authorization to Practice.

24 3. During the course of any investigation, a psychologist may  
25 not change his/her Home State licensure. A Home State  
26 Psychology Regulatory Authority is authorized to complete  
27 any pending investigations of a psychologist and to take

any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

ARTICLE IX. COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:

1. Identifying information;

- 1     2. Licensure data;
- 2     3. Significant investigatory information;
- 3     4. Adverse actions against a psychologist's license;
- 4     5. An indicator that a psychologist's Authority to Practice  
5         Interjurisdictional Telepsychology and/or Temporary  
6         Authorization to Practice is revoked;
- 7     6. Non-confidential information related to alternative  
8         program participation information;
- 9     7. Any denial of application for licensure, and the reasons  
10         for such denial; and
- 11     8. Other information which may facilitate the administration  
12         of this Compact, as determined by the Rules of the  
13         Commission.

14 C. The Coordinated Database administrator shall promptly notify  
15     all Compact States of any adverse action taken against, or  
16     significant investigative information on, any licensee in a  
17     Compact State.

18 D. Compact States reporting information to the Coordinated  
19     Database may designate information that may not be shared with  
20     the public without the express permission of the Compact State  
21     reporting the information.

22 E. Any information submitted to the Coordinated Database that is  
23     subsequently required to be expunged by the law of the Compact  
24     State reporting the information shall be removed from the  
25     Coordinated Database.



1 ARTICLE X. ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL  
2 COMPACT COMMISSION

3 A. The Compact States hereby create and establish a joint public  
4 agency known as the Psychology Interjurisdictional Compact  
5 Commission.

6 1. The Commission is a body politic and an instrumentality of  
7 the Compact States.

8 2. Venue is proper and judicial proceedings by or against the  
9 Commission shall be brought solely and exclusively in a  
10 court of competent jurisdiction where the principal office  
11 of the Commission is located. The Commission may waive  
12 venue and jurisdictional defenses to the extent it adopts  
13 or consents to participate in alternative dispute  
14 resolution proceedings.

15 3. Nothing in this Compact shall be construed to be a waiver  
16 of sovereign immunity.

17 B. Membership, Voting, and Meetings

18 1. The Commission shall consist of one voting representative  
19 appointed by each Compact State who shall serve as that  
20 state's Commissioner. The State Psychology Regulatory  
21 Authority shall appoint its delegate. This delegate shall  
22 be empowered to act on behalf of the Compact State. This  
23 delegate shall be limited to:

24 a. Executive Director, Executive Secretary or similar  
25 executive;

26 b. Current member of the State Psychology Regulatory  
27 Authority of a Compact State; OR

1        c. Designee empowered with the appropriate delegate  
2        authority to act on behalf of the Compact State.

3        2. Any Commissioner may be removed or suspended from office as  
4        provided by the law of the state from which the  
5        Commissioner is appointed. Any vacancy occurring in the  
6        Commission shall be filled in accordance with the laws of  
7        the Compact State in which the vacancy exists.

8        3. Each Commissioner shall be entitled to one (1) vote with  
9        regard to the promulgation of Rules and creation of Bylaws  
10       and shall otherwise have an opportunity to participate in  
11       the business and affairs of the Commission. A Commissioner  
12       shall vote in person or by such other means as provided in  
13       the Bylaws. The Bylaws may provide for Commissioners'  
14       participation in meetings by telephone or other means of  
15       communication.

16       4. The Commission shall meet at least once during each  
17       calendar year. Additional meetings shall be held as set  
18       forth in the Bylaws.

19       5. All meetings shall be open to the public, and public notice  
20       of meetings shall be given in the same manner as required  
21       under the rulemaking provisions in Article XI.

22       6. The Commission may convene in a closed, non-public meeting  
23       if the Commission must discuss:

24       a. Non-compliance of a Compact State with its obligations  
25       under the Compact;

26       b. The employment, compensation, discipline or other  
27       personnel matters, practices or procedures related to

1 specific employees or other matters related to the  
2 Commission's internal personnel practices and  
3 procedures;

4 c. Current, threatened, or reasonably anticipated  
5 litigation against the Commission;

6 d. Negotiation of contracts for the purchase or sale of  
7 goods, services or real estate;

8 e. Accusation against any person of a crime or formally  
9 censuring any person;

10 f. Disclosure of trade secrets or commercial or financial  
11 information which is privileged or confidential;

12 g. Disclosure of information of a personal nature where  
13 disclosure would constitute a clearly unwarranted  
14 invasion of personal privacy;

15 h. Disclosure of investigatory records compiled for law  
16 enforcement purposes;

17 i. Disclosure of information related to any  
18 investigatory reports prepared by or on behalf of or  
19 for use of the Commission or other committee charged  
20 with responsibility for investigation or  
21 determination of compliance issues pursuant to the  
22 Compact; or

23 j. Matters specifically exempted from disclosure by  
24 federal and state statute.

25 7. If a meeting, or portion of a meeting, is closed pursuant  
26 to this provision, the Commission's legal counsel or  
27 designee shall certify that the meeting may be closed and

shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. for the establishment and meetings of other committees; and

b. governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings,

1 and proprietary information, including trade secrets. The  
2 Commission may meet in closed session only after a  
3 majority of the Commissioners vote to close a meeting to  
4 the public in whole or in part. As soon as practicable, the  
5 Commission must make public a copy of the vote to close the  
6 meeting revealing the vote of each Commissioner with no  
7 proxy votes allowed;

8 4. Establishing the titles, duties and authority and  
9 reasonable procedures for the election of the officers of  
10 the Commission;

11 5. Providing reasonable standards and procedures for the  
12 establishment of the personnel policies and programs of  
13 the Commission. Notwithstanding any civil service or other  
14 similar law of any Compact State, the Bylaws shall  
15 exclusively govern the personnel policies and programs of  
16 the Commission;

17 6. Promulgating a Code of Ethics to address permissible and  
18 prohibited activities of Commission members and  
19 employees;

20 7. Providing a mechanism for concluding the operations of the  
21 Commission and the equitable disposition of any surplus  
22 funds that may exist after the termination of the Compact  
23 after the payment and/or reserving of all of its debts and  
24 obligations;

25 8. The Commission shall publish its Bylaws in a convenient  
26 form and file a copy thereof and a copy of any amendment  
27 thereto, with the appropriate agency or officer in each of

the Compact States;

9. The Commission shall maintain its financial records in accordance with the Bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

- 1     6. To accept any and all appropriate donations and grants of  
2         money, equipment, supplies, materials and services, and to  
3         receive, utilize and dispose of the same; provided that at  
4         all times the Commission shall strive to avoid any  
5         appearance of impropriety and/or conflict of interest;
- 6     7. To lease, purchase, accept appropriate gifts or donations  
7         of, or otherwise to own, hold, improve or use, any  
8         property, real, personal or mixed; provided that at all  
9         times the Commission shall strive to avoid any appearance  
10        of impropriety;
- 11    8. To sell, convey, mortgage, pledge, lease, exchange,  
12        abandon or otherwise dispose of any property real,  
13        personal or mixed;
- 14    9. To establish a budget and make expenditures;
- 15    10. To borrow money;
- 16    11. To appoint committees, including advisory committees  
17        comprised of Members, State regulators, State legislators  
18        or their representatives, and consumer representatives,  
19        and such other interested persons as may be designated in  
20        this Compact and the Bylaws;
- 21    12. To provide and receive information from, and to cooperate  
22        with, law enforcement agencies;
- 23    13. To adopt and use an official seal; and
- 24    14. To perform such other functions as may be necessary or  
25        appropriate to achieve the purposes of this Compact  
26        consistent with the state regulation of psychology  
27        licensure, temporary in-person, face-to-face practice and

1       telepsychology practice.

2   E. The Executive Board

3       The elected officers shall serve as the Executive Board, which  
4       shall have the power to act on behalf of the Commission  
5       according to the terms of this Compact.

6       1. The Executive Board shall be comprised of six members:

7           a. Five voting members who are elected from the current  
8           membership of the Commission by the Commission;

9           b. One ex-officio, nonvoting member from the recognized  
10          membership organization composed of State and  
11          Provincial Psychology Regulatory Authorities.

12       2. The ex-officio member must have served as staff or member  
13       on a State Psychology Regulatory Authority and will be  
14       selected by its respective organization.

15       3. The Commission may remove any member of the Executive Board  
16       as provided in Bylaws.

17       4. The Executive Board shall meet at least annually.

18       5. The Executive Board shall have the following duties and  
19       responsibilities:

20           a. Recommend to the entire Commission changes to the  
21           Rules or Bylaws, changes to this Compact legislation,  
22           fees paid by Compact States such as annual dues, and  
23           any other applicable fees;

24           b. Ensure Compact administration services are  
25           appropriately provided, contractual or otherwise;

26           c. Prepare and recommend the budget;

27           d. Maintain financial records on behalf of the



Commission;

e. Monitor Compact compliance of member states and  
provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or Bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of the  
reasonable expenses of its establishment, organization  
and ongoing activities.

2. The Commission may accept any and all appropriate revenue  
sources, donations and grants of money, equipment,  
supplies, materials and services.

3. The Commission may levy on and collect an annual assessment  
from each Compact State or impose fees on other parties to  
cover the cost of the operations and activities of the  
Commission and its staff which must be in a total amount  
sufficient to cover its annual budget as approved each  
year for which revenue is not provided by other sources.  
The aggregate annual assessment amount shall be allocated  
based upon a formula to be determined by the Commission  
which shall promulgate a rule binding upon all Compact  
States.

4. The Commission shall not incur obligations of any kind  
prior to securing the funds adequate to meet the same; nor  
shall the Commission pledge the credit of any of the  
Compact States, except by and with the authority of the  
Compact State.

1     5. The Commission shall keep accurate accounts of all  
 2     receipts and disbursements. The receipts and  
 3     disbursements of the Commission shall be subject to the  
 4     audit and accounting procedures established under its  
 5     Bylaws. However, all receipts and disbursements of funds  
 6     handled by the Commission shall be audited yearly by a  
 7     certified or licensed public accountant and the report of  
 8     the audit shall be included in and become part of the  
 9     annual report of the Commission.

10   G. Qualified Immunity, Defense, and Indemnification

11     1. The members, officers, Executive Director, employees and  
 12     representatives of the Commission shall be immune from  
 13     suit and liability, either personally or in their official  
 14     capacity, for any claim for damage to or loss of property  
 15     or personal injury or other civil liability caused by or  
 16     arising out of any actual or alleged act, error or omission  
 17     that occurred, or that the person against whom the claim is  
 18     made had a reasonable basis for believing occurred within  
 19     the scope of Commission employment, duties or  
 20     responsibilities; provided that nothing in this paragraph  
 21     shall be construed to protect any such person from suit  
 22     and/or liability for any damage, loss, injury or liability  
 23     caused by the intentional or willful or wanton misconduct  
 24     of that person.

25     2. The Commission shall defend any member, officer, Executive  
 26     Director, employee or representative of the Commission in  
 27     any civil action seeking to impose liability arising out

of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

#### ARTICLE XI. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

1 B. If a majority of the legislatures of the Compact States rejects  
2 a rule, by enactment of a statute or resolution in the same  
3 manner used to adopt the Compact, then such rule shall have no  
4 further force and effect in any Compact State.

5 C. Rules or amendments to the rules shall be adopted at a regular  
6 or special meeting of the Commission.

7 D. Prior to promulgation and adoption of a final rule or Rules by  
8 the Commission, and at least sixty (60) days in advance of the  
9 meeting at which the rule will be considered and voted upon,  
10 the Commission shall file a Notice of Proposed Rulemaking:

11 1. On the website of the Commission; and

12 2. On the website of each Compact States' Psychology  
13 Regulatory Authority or the publication in which each  
14 state would otherwise publish proposed rules.

15 E. The Notice of Proposed Rulemaking shall include:

16 1. The proposed time, date, and location of the meeting in  
17 which the rule will be considered and voted upon;

18 2. The text of the proposed rule or amendment and the reason  
19 for the proposed rule;

20 3. A request for comments on the proposed rule from any  
21 interested person; and

22 4. The manner in which interested persons may submit notice to  
23 the Commission of their intention to attend the public  
24 hearing and any written comments.

25 F. Prior to adoption of a proposed rule, the Commission shall  
26 allow persons to submit written data, facts, opinions and  
27 arguments, which shall be made available to the public.

1 G. The Commission shall grant an opportunity for a public hearing  
2 before it adopts a rule or amendment if a hearing is requested  
3 by:

- 4 1. At least twenty-five (25) persons who submit comments  
5 independently of each other;
- 6 2. A governmental subdivision or agency; or
- 7 3. A duly appointed person in an association that has having  
8 at least twenty-five (25) members.

9 H. If a hearing is held on the proposed rule or amendment, the  
10 Commission shall publish the place, time, and date of the  
11 scheduled public hearing.

- 12 1. All persons wishing to be heard at the hearing shall notify  
13 the Executive Director of the Commission or other  
14 designated member in writing of their desire to appear and  
15 testify at the hearing not less than five (5) business days  
16 before the scheduled date of the hearing.
- 17 2. Hearings shall be conducted in a manner providing each  
18 person who wishes to comment a fair and reasonable  
19 opportunity to comment orally or in writing.
- 20 3. No transcript of the hearing is required, unless a written  
21 request for a transcript is made, in which case the person  
22 requesting the transcript shall bear the cost of producing  
23 the transcript. A recording may be made in lieu of a  
24 transcript under the same terms and conditions as a  
25 transcript. This subsection shall not preclude the  
26 Commission from making a transcript or recording of the  
27 hearing if it so chooses.

1     4. Nothing in this section shall be construed as requiring a  
2         separate hearing on each rule. Rules may be grouped for the  
3         convenience of the Commission at hearings required by this  
4         section.

5     I. Following the scheduled hearing date, or by the close of  
6         business on the scheduled hearing date if the hearing was not  
7         held, the Commission shall consider all written and oral  
8         comments received.

9     J. The Commission shall, by majority vote of all members, take  
10        final action on the proposed rule and shall determine the  
11        effective date of the rule, if any, based on the rulemaking  
12        record and the full text of the rule.

13    K. If no written notice of intent to attend the public hearing by  
14        interested parties is received, the Commission may proceed  
15        with promulgation of the proposed rule without a public  
16        hearing.

17    L. Upon determination that an emergency exists, the Commission may  
18        consider and adopt an emergency rule without prior notice,  
19        opportunity for comment, or hearing, provided that the usual  
20        rulemaking procedures provided in the Compact and in this  
21        section shall be retroactively applied to the rule as soon as  
22        reasonably possible, in no event later than ninety (90) days  
23        after the effective date of the rule. For the purposes of this  
24        provision, an emergency rule is one that must be adopted  
25        immediately in order to:

26        1. Meet an imminent threat to public health, safety, or  
27        welfare;

2. Prevent a loss of Commission or Compact State funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

## ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

### A. Oversight

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and

1 the rules in any judicial or administrative proceeding in  
2 a Compact State pertaining to the subject matter of this  
3 Compact which may affect the powers, responsibilities or  
4 actions of the Commission.

5 3. The Commission shall be entitled to receive service of  
6 process in any such proceeding, and shall have standing to  
7 intervene in such a proceeding for all purposes. Failure  
8 to provide service of process to the Commission shall  
9 render a judgment or order void as to the Commission, this  
10 Compact or promulgated rules.

11 B. Default, Technical Assistance, and Termination

12 1. If the Commission determines that a Compact State has  
13 defaulted in the performance of its obligations or  
14 responsibilities under this Compact or the promulgated  
15 rules, the Commission shall:

- 16 a. Provide written notice to the defaulting state and  
17 other Compact States of the nature of the default, the  
18 proposed means of remedying the default and/or any  
19 other action to be taken by the Commission; and  
20 b. Provide remedial training and specific technical  
21 assistance regarding the default.

22 2. If a state in default fails to remedy the default, the  
23 defaulting state may be terminated from the Compact upon  
24 an affirmative vote of a majority of the Compact States,  
25 and all rights, privileges and benefits conferred by this  
26 Compact shall be terminated on the effective date of  
27 termination. A remedy of the default does not relieve the



1 offending state of obligations or liabilities incurred  
2 during the period of default.

3 3. Termination of membership in the Compact shall be imposed  
4 only after all other means of securing compliance have  
5 been exhausted. Notice of intent to suspend or terminate  
6 shall be submitted by the Commission to the Governor, the  
7 majority and minority leaders of the defaulting state's  
8 legislature, and each of the Compact States.

9 4. A Compact State which has been terminated is responsible  
10 for all assessments, obligations and liabilities incurred  
11 through the effective date of termination, including  
12 obligations which extend beyond the effective date of  
13 termination.

14 5. The Commission shall not bear any costs incurred by the  
15 state which is found to be in default or which has been  
16 terminated from the Compact, unless agreed upon in writing  
17 between the Commission and the defaulting state.

18 6. The defaulting state may appeal the action of the  
19 Commission by petitioning the U.S. District Court for the  
20 state of Georgia or the federal district where the Compact  
21 has its principal offices. The prevailing member shall be  
22 awarded all costs of such litigation, including reasonable  
23 attorney's fees.

24 C. Dispute Resolution

25 1. Upon request by a Compact State, the Commission shall  
26 attempt to resolve disputes related to the Compact which  
27 arise among Compact States and between Compact and

1       Non-Compact States.

2       2. The Commission shall promulgate a rule providing for both  
3       mediation and binding dispute resolution for disputes that  
4       arise before the commission.

5   D. Enforcement

6       1. The Commission, in the reasonable exercise of its  
7       discretion, shall enforce the provisions and Rules of this  
8       Compact.

9       2. By majority vote, the Commission may initiate legal action  
10       in the United States District Court for the State of  
11       Georgia or the federal district where the Compact has its  
12       principal offices against a Compact State in default to  
13       enforce compliance with the provisions of the Compact and  
14       its promulgated Rules and Bylaws. The relief sought may  
15       include both injunctive relief and damages. In the event  
16       judicial enforcement is necessary, the prevailing member  
17       shall be awarded all costs of such litigation, including  
18       reasonable attorney's fees.

19       3. The remedies herein shall not be the exclusive remedies of  
20       the Commission. The Commission may pursue any other  
21       remedies available under federal or state law.

22       ARTICLE XIII. DATE OF IMPLEMENTATION OF THE PSYCHOLOGY  
23       INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES,  
24       WITHDRAWAL, AND AMENDMENTS

25   A. The Compact shall come into effect on the date on which the  
26       Compact is enacted into law in the seventh Compact State. The  
27       provisions which become effective at that time shall be limited

1 to the powers granted to the Commission relating to assembly  
2 and the promulgation of rules. Thereafter, the Commission  
3 shall meet and exercise rulemaking powers necessary to the  
4 implementation and administration of the Compact.

5 B. Any state which joins the Compact subsequent to the  
6 Commission's initial adoption of the rules shall be subject to  
7 the rules as they exist on the date on which the Compact becomes  
8 law in that state. Any rule which has been previously adopted  
9 by the Commission shall have the full force and effect of law on  
10 the day the Compact becomes law in that state.

11 C. Any Compact State may withdraw from this Compact by enacting a  
12 statute repealing the same.

13 1. A Compact State's withdrawal shall not take effect until  
14 six (6) months after enactment of the repealing statute.

15 2. Withdrawal shall not affect the continuing requirement of  
16 the withdrawing State's Psychology Regulatory Authority  
17 to comply with the investigative and adverse action  
18 reporting requirements of this act prior to the effective  
19 date of withdrawal.

20 D. Nothing contained in this Compact shall be construed to  
21 invalidate or prevent any psychology licensure agreement or  
22 other cooperative arrangement between a Compact State and a  
23 Non-Compact State which does not conflict with the provisions  
24 of this Compact.

25 E. This Compact may be amended by the Compact States. No amendment  
26 to this Compact shall become effective and binding upon any  
27 Compact State until it is enacted into the law of all Compact

1       States.

2               ARTICLE XIV. CONSTRUCTION AND SEVERABILITY

3       This Compact shall be liberally construed so as to effectuate the  
4       purposes thereof. If this Compact shall be held contrary to the  
5       constitution of any state member thereto, the Compact shall remain  
6       in full force and effect as to the remaining Compact States.

7               Sec. 501.602. RULES ADOPTED UNDER COMPACT. The Psychology  
8       Interjurisdictional Compact Commission established under the  
9       Psychology Interjurisdictional Compact under Section 501.601 may  
10       not adopt rules that alter the requirements or scope of practice of  
11       a license issued under Chapter 501. Any rule adopted by the  
12       Psychology Interjurisdictional Compact Commission that purports to  
13       alter the requirements or scope of practice of a license issued  
14       under Chapter 501 is not enforceable.

15               SECTION 2.047. Sections 502.002(2) and (5), Occupations  
16       Code, are amended to read as follows:

17               (2) "Executive council" ["Commissioner"] means the  
18       Texas Behavioral Health Executive Council [commissioner of state  
19       health services].

20               (5) "Licensed marriage and family therapist  
21       associate" means an individual who offers to provide marriage and  
22       family therapy for compensation under the supervision of a  
23       ~~[board-approved]~~ supervisor approved by the executive council.

24               SECTION 2.048. The heading to Section 502.053, Occupations  
25       Code, is amended to read as follows:

26               Sec. 502.053. MEMBERSHIP ~~[AND EMPLOYEE]~~ RESTRICTIONS.

27               SECTION 2.049. Sections 502.053(b) and (c), Occupations

1 Code, are amended to read as follows:

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

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

11 (2) the person's spouse is an officer, manager, or paid  
12 consultant of a Texas trade association in the field of mental  
13 health.

14 (c) A person may not be a member of the board [~~or act as~~  
15 ~~general counsel to the board or the department~~] if the person is  
16 required to register as a lobbyist under Chapter 305, Government  
17 Code, because of the person's activities for compensation on behalf  
18 of a profession related to the operation of the board.

19 SECTION 2.050. Section 502.056(c), Occupations Code, is  
20 amended to read as follows:

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

highest ranking officer of the board, who shall then notify the governor and attorney general that a potential ground for removal exists.

SECTION 2.051. Section 502.059, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

- (1) the law governing board operations ~~[this chapter];~~
- (2) the programs, ~~[operated by the board,~~
- ~~[(3) the role and]~~ functions, ~~[of the board,~~
- ~~[(4) the]~~ rules, and ~~[of the board, with an emphasis on~~
- ~~the rules that relate to disciplinary and investigatory authority,~~
- ~~[(5) the current]~~ budget of ~~[for]~~ the board;
- (3) the scope of and limitations on the rulemaking authority of the board;
- (4) ~~[(6)]~~ the results of the most recent formal audit of the board;
- (5) ~~[(7)]~~ the requirements of:
  - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts ~~[conflict]~~ of interest; and
  - (B) other laws applicable to members of the board in performing their duties; and
- (6) ~~[(8)]~~ any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(d) The executive director of the executive council shall

1 create a training manual that includes the information required by  
2 Subsection (b). The executive director shall distribute a copy of  
3 the training manual annually to each board member. On receipt of the  
4 training manual, each board member shall sign and submit to the  
5 executive director a statement acknowledging receipt of the  
6 training manual.

7 SECTION 2.052. The heading to Subchapter D, Chapter 502,  
8 Occupations Code, is amended to read as follows:

9 SUBCHAPTER D. ~~[BOARD]~~ POWERS AND DUTIES

10 SECTION 2.053. Section 502.151, Occupations Code, is  
11 amended to read as follows:

12 Sec. 502.151. GENERAL POWERS AND DUTIES OF EXECUTIVE  
13 COUNCIL ~~[BOARD]~~. The executive council ~~[board]~~ shall:

14 (1) determine the qualifications and fitness of a  
15 license applicant under this chapter; and

16 (2) adopt a code of professional ethics for license  
17 holders.

18 SECTION 2.054. Subchapter D, Chapter 502, Occupations Code,  
19 is amended by adding Section 502.1515 to read as follows:

20 Sec. 502.1515. BOARD DUTIES. The board shall propose to the  
21 executive council:

22 (1) rules regarding:

23 (A) the qualifications necessary to obtain a  
24 license, including rules limiting an applicant's eligibility for a  
25 license based on the applicant's criminal history;

26 (B) the scope of practice of and standards of  
27 care and ethical practice for marriage and family therapy; and

1                    (C) continuing education requirements for  
2 license holders; and

3                    (2) a schedule of sanctions for violations of this  
4 chapter or rules adopted under this chapter.

5            SECTION 2.055. Section 502.155, Occupations Code, is  
6 amended to read as follows:

7            Sec. 502.155. POWERS AND DUTIES REGARDING EXAMINATION. The  
8 executive council [~~board~~] shall:

9                    (1) determine the times and places for licensing  
10 examinations;

11                    (2) offer examinations at least semiannually; and

12                    (3) give reasonable public notice of the examinations  
13 in the manner provided by executive council [~~board~~] rules.

14            SECTION 2.056. Section 502.157, Occupations Code, is  
15 amended to read as follows:

16            Sec. 502.157. ANNUAL REGISTRY. (a) The executive council  
17 [~~board~~] shall annually prepare a registry of all license holders.

18                    (b) The executive council [~~board~~] shall make the registry  
19 available to the public, license holders, and other state agencies.

20            SECTION 2.057. Section 502.159, Occupations Code, is  
21 amended to read as follows:

22            Sec. 502.159. EX PARTE COMMUNICATION PROHIBITED. A [~~board~~]  
23 member of the executive council or an [~~department~~] employee of the  
24 executive council who [~~performs functions for the board and who~~] is  
25 assigned to make a decision, a finding of fact, or a conclusion of  
26 law in a proceeding pending before the executive council [~~board~~]  
27 may not directly or indirectly communicate with a party to the



1 proceeding or the party's representative unless notice and an  
2 opportunity to participate are given to each party to the  
3 proceeding.

4 SECTION 2.058. Section 502.252, Occupations Code, is  
5 amended to read as follows:

6 Sec. 502.252. LICENSE APPLICATION. (a) An applicant for a  
7 license must:

8 (1) file a written application with the executive  
9 council [~~board~~] on a form prescribed by the executive council  
10 [~~board~~]; and

11 (2) pay the appropriate application fee.

12 (b) To qualify for a license as a licensed marriage and  
13 family therapist associate, a person must:

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

15 (2) have completed a graduate internship in marriage  
16 and family therapy, or an equivalent internship, as approved by the  
17 executive council [~~board~~];

18 (3) pass the license examination and jurisprudence  
19 examination required under this chapter [~~determined by the board~~];

20 (4) hold a master's or doctoral degree in marriage and  
21 family therapy or in a related mental health field with coursework  
22 and training determined by the executive council [~~board~~] to be  
23 substantially equivalent to a graduate degree in marriage and  
24 family therapy from a regionally accredited institution of higher  
25 education or an institution of higher education approved by the  
26 executive council [~~board~~];

27 (5) [~~be of good moral character,~~

1           ~~[(6)]~~ have not been convicted of a felony or a crime  
2 involving moral turpitude;

3           (6) ~~[(7)]~~ not use drugs or alcohol to an extent that  
4 affects the applicant's professional competency;

5           (7) ~~[(8)]~~ not have had a license or certification  
6 revoked by a licensing agency or by a certifying professional  
7 organization; and

8           (8) ~~[(9)]~~ not have engaged in fraud or deceit in  
9 applying for a license under this chapter.

10          (c) An applicant is eligible to apply for a license as a  
11 licensed marriage and family therapist if the person:

12           (1) meets the requirements of Subsection (b);

13           (2) after receipt of a degree described by Subsection  
14 (b)(4), has completed two years of work experience in marriage and  
15 family therapist services that includes at least 3,000 hours of  
16 clinical practice consisting of ~~[which]~~

17           ~~[(A)]~~ at least 1,500 hours ~~[consist]~~ of direct  
18 clinical services, including a minimum number of ~~[, and (B) at~~  
19 ~~least 750]~~ hours providing ~~[consist of]~~ direct clinical services to  
20 couples or families as required by executive council rule; and

21           (3) has completed, in a manner acceptable to the  
22 executive council ~~[board]~~, at least 200 hours of supervised  
23 provision of direct clinical services by the applicant, 100 hours  
24 of which must be supervised on an individual basis.

25          SECTION 2.059. Sections 502.253(a), (b), and (c),  
26 Occupations Code, are amended to read as follows:

27          (a) The executive council ~~[board]~~ shall investigate each

1 application and any other information submitted by the applicant.

2 (b) Not later than the 90th day after the date the executive  
3 council [~~board~~] receives the completed application from a person  
4 seeking a license as a licensed marriage and family therapist  
5 associate, the executive council [~~board~~] shall notify the applicant  
6 whether the application has been accepted or rejected.

7 (c) An applicant for a license as a licensed marriage and  
8 family therapist associate is eligible to take the examination if  
9 the applicant:

10 (1) is enrolled in a graduate internship described by  
11 Section 502.252(b)(2) and provides proof to the executive council  
12 [~~board~~] that the applicant is a student in good standing in an  
13 educational program described by Section 502.252(b)(4); or

14 (2) has completed the internship described by  
15 Subdivision (1).

16 SECTION 2.060. Sections 502.254(b) and (d), Occupations  
17 Code, are amended to read as follows:

18 (b) An applicant for a license as a licensed marriage and  
19 family therapist associate under Section 502.252(b) must:

20 (1) file an application on a form prescribed by the  
21 executive council [~~board~~] not later than the 90th day before the  
22 date of the examination; and

23 (2) pay the examination fee [~~set by the executive~~  
24 ~~commissioner of the Health and Human Services Commission by rule~~].

25 (d) The executive council [~~board~~] shall have any written  
26 portion of an examination validated by an independent testing  
27 professional.

SECTION 2.061. Section 502.2541, Occupations Code, is amended to read as follows:

Sec. 502.2541. JURISPRUDENCE EXAMINATION. (a) The executive council [~~board~~] shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, [~~board~~] rules adopted under this chapter, and any other applicable laws of this state affecting the applicant's practice of marriage and family therapy.

(b) The executive council [~~board~~] shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 2.062. Section 502.2545, Occupations Code, is amended to read as follows:

Sec. 502.2545. WAIVER OF EXAMINATION FOR CERTAIN APPLICANTS. (a) The executive council [~~board~~] may waive the requirement that an applicant for a license as a licensed marriage and family therapist pass the examination required by Section 502.254 if the applicant:

(1) is a provisional license holder under Section 502.259 and the executive council [~~board~~] determines that the applicant possesses sufficient education and professional experience to receive a license without further examination; or

(2) holds a license issued by another licensing agency in a profession related to the practice of marriage and family therapy and the executive council [~~board~~] determines that the

1 applicant possesses sufficient education and professional  
2 experience to receive a license without satisfying the examination  
3 requirements of this chapter.

4 (b) The executive council [~~board~~] may adopt rules necessary  
5 to administer this section, including rules under Subsection (a)(2)  
6 prescribing the professions that are related to the practice of  
7 marriage and family therapy.

8 SECTION 2.063. Section 502.257, Occupations Code, is  
9 amended to read as follows:

10 Sec. 502.257. ISSUANCE OF LICENSE. The executive council  
11 [~~board~~] shall issue a license as a licensed marriage and family  
12 therapist associate or licensed marriage and family therapist, as  
13 appropriate, to an applicant who:

- 14 (1) complies with the requirements of this chapter;  
15 (2) passes the licensing examination, unless the  
16 executive council [~~board~~] exempts the person from the examination  
17 requirement; and  
18 (3) pays the required fees.

19 SECTION 2.064. Section 502.258(a), Occupations Code, is  
20 amended to read as follows:

21 (a) The executive council [~~board~~] by rule may provide for  
22 the issuance of a temporary license.

23 SECTION 2.065. Section 502.259, Occupations Code, is  
24 amended to read as follows:

25 Sec. 502.259. PROVISIONAL LICENSE. (a) The executive  
26 council [~~board~~] may grant a provisional license to practice as a  
27 marriage and family therapist in this state without examination to

1 an applicant who is licensed or otherwise registered as a marriage  
2 and family therapist by another state or jurisdiction if the  
3 requirements to be licensed or registered in the other state or  
4 jurisdiction were, on the date the person was licensed or  
5 registered, substantially equal to the requirements of this  
6 chapter.

7 (b) An applicant for a provisional license must:

8 (1) be licensed in good standing as a marriage and  
9 family therapist in another state or jurisdiction that has  
10 licensing requirements that are substantially equal to the  
11 requirements of this chapter;

12 (2) have passed a national or other examination that:

13 (A) is recognized by the executive council  
14 [~~board~~]; and

15 (B) relates to marriage and family therapy; and

16 (3) be sponsored by a person licensed by the executive  
17 council [~~board~~] with whom the provisional license holder may  
18 practice under this section.

19 (c) An applicant may be excused from the requirement of  
20 Subsection (b)(3) if the executive council [~~board~~] determines that  
21 compliance with that subsection constitutes a hardship to the  
22 applicant.

23 (d) A provisional license is valid until the date the  
24 executive council [~~board~~] approves or denies the provisional  
25 license holder's application for a license under Section 502.257.  
26 The executive council [~~board~~] shall complete processing of a  
27 provisional license holder's application for a license not later

1 than the 180th day after the date the provisional license is issued.  
2 The executive council [~~board~~] may extend this period to allow for  
3 the receipt and tabulation of pending examination results.

4 (e) The executive council [~~board~~] shall issue a license  
5 under Section 502.257 to a provisional license holder if:

6 (1) the provisional license holder passes the  
7 examination required by Section 502.254;

8 (2) the executive council [~~board~~] verifies that the  
9 provisional license holder satisfies the academic and experience  
10 requirements of this chapter; and

11 (3) the provisional license holder satisfies any other  
12 license requirements under this chapter.

13 SECTION 2.066. Sections 502.260(a), (b), and (d),  
14 Occupations Code, are amended to read as follows:

15 (a) The executive council [~~board~~] may place a license  
16 holder's license under this chapter on inactive status if the  
17 holder is not actively engaged in the practice of marriage and  
18 family therapy and the holder submits a written request to the  
19 executive council [~~board~~] before the expiration of the holder's  
20 license.

21 (b) The executive council [~~board~~] shall maintain a list of  
22 each license holder whose license is on inactive status.

23 (d) The executive council [~~board~~] shall remove the license  
24 holder's license from inactive status if the person:

25 (1) notifies the executive council [~~board~~] in writing  
26 that the person intends to return to active practice;

27 (2) pays an administrative fee; and

(3) complies with educational or other requirements the executive council [~~board~~] adopts by rule.

SECTION 2.067. Section 502.261(b), Occupations Code, is amended to read as follows:

(b) Each license holder shall notify the executive council [~~board~~] of the license holder's current address.

SECTION 2.068. Section 502.301(a), Occupations Code, is amended to read as follows:

(a) A license issued under this chapter is subject to biennial renewal. The executive council [~~board~~] shall adopt a system under which licenses expire on various dates during the year.

SECTION 2.069. The heading to Subchapter H, Chapter 502, Occupations Code, is amended to read as follows:

SUBCHAPTER H. DISCIPLINARY ACTIONS [~~AND PROCEDURES~~]

SECTION 2.070. Section 502.351, Occupations Code, is amended to read as follows:

Sec. 502.351. GROUNDS FOR DISCIPLINARY ACTIONS. The executive council [~~board~~] shall take disciplinary action under Subchapter G, Chapter 506, against [~~reprimand~~] a license holder who [~~, place on probation a person whose license has been suspended, refuse to renew a person's license, or suspend or revoke a holder's license if the person~~]:

(1) is convicted of a misdemeanor involving moral turpitude or a felony;

(2) obtains or attempts to obtain a license by fraud or deception;



(3) uses drugs or alcohol to an extent that affects the license holder's professional competence;

(4) performs professional duties in a grossly negligent manner;

(5) is adjudicated as mentally incompetent by a court;

(6) practices in a manner that is detrimental to the public health or welfare;

(7) advertises in a manner that tends to deceive or defraud the public;

(8) has a license or certification revoked by a licensing agency or a certifying professional organization;

(9) violates this chapter or a rule or code of ethics adopted under this chapter; or

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

SECTION 2.071. Section 502.357, Occupations Code, is amended to read as follows:

Sec. 502.357. GROUNDS FOR REFUSING RENEWAL. The executive council [~~board~~] may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter H, Chapter 506, [~~±~~] unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.072. Section 502.358, Occupations Code, is amended to read as follows:

Sec. 502.358. REFUND. (a) Subject to Subsection (b), the executive council [~~board~~] may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal

1 settlement conference instead of or in addition to imposing an  
2 administrative penalty under Subchapter H, Chapter 506 [~~this~~  
3 ~~chapter~~].

4 (b) The amount of a refund ordered as provided in an  
5 agreement resulting from an informal settlement conference may not  
6 exceed the amount the consumer paid to the license holder for a  
7 service regulated by this chapter. The executive council [~~board~~]  
8 may not require payment of other damages or estimate harm in a  
9 refund order.

10 SECTION 2.073. The heading to Subchapter J, Chapter 502,  
11 Occupations Code, is amended to read as follows:

12 SUBCHAPTER J. CRIMINAL PENALTY [~~OTHER PENALTIES AND ENFORCEMENT~~  
13 ~~PROVISIONS~~]

14 SECTION 2.074. Section 503.002(2), Occupations Code, is  
15 amended to read as follows:

16 (2) "Executive council" [~~"Department"~~] means the  
17 Texas Behavioral Health Executive Council [~~Department of State~~  
18 ~~Health Services~~].

19 SECTION 2.075. The heading to Section 503.104, Occupations  
20 Code, is amended to read as follows:

21 Sec. 503.104. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

22 SECTION 2.076. Sections 503.104(b) and (c), Occupations  
23 Code, are amended to read as follows:

24 (b) A person may not be a member of the board [~~and may not be~~  
25 ~~a department employee employed in a "bona fide executive,~~  
26 ~~administrative, or professional capacity," as that phrase is used~~  
27 ~~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, manager, 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.

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

SECTION 2.077. Section 503.107(c), Occupations Code, is amended to read as follows:

(c) If the executive director of the executive council has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and attorney general that a potential ground for removal exists.

SECTION 2.078. Section 503.110, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to

1 read as follows:

2 (b) The training program must provide the person with  
3 information regarding:

4 (1) the law governing board operations;

5 (2) [~~this chapter and~~ the [~~board's~~ programs,  
6 functions, rules, and budget of the board;

7 (3) the scope of and limitations on the rulemaking  
8 authority of the board;

9 (4) [~~(2)~~ the results of the most recent formal audit  
10 of the board;

11 (5) [~~(3)~~ the requirements of:

12 (A) laws relating to open meetings, public  
13 information, administrative procedure, and disclosing  
14 conflicts-of-interest; and

15 (B) other laws applicable to members of the board  
16 in performing their duties; and

17 (6) [~~(4)~~ any applicable ethics policies adopted by  
18 the board or the Texas Ethics Commission.

19 (d) The executive director of the executive council shall  
20 create a training manual that includes the information required by  
21 Subsection (b). The executive director shall distribute a copy of  
22 the training manual annually to each board member. On receipt of the  
23 training manual, each board member shall sign and submit to the  
24 executive director a statement acknowledging receipt of the  
25 training manual.

26 SECTION 2.079. The heading to Subchapter E, Chapter 503,  
27 Occupations Code, is amended to read as follows:

SUBCHAPTER E. [~~BOARD~~] POWERS AND DUTIES

SECTION 2.080. Section 503.201, Occupations Code, is amended to read as follows:

Sec. 503.201. GENERAL POWERS AND DUTIES OF EXECUTIVE COUNCIL. (a) The executive council [~~board~~] shall:

(1) determine the qualifications and fitness of an applicant for a license, license renewal, or provisional license;

(2) examine for, deny, approve, issue, revoke, suspend, suspend on an emergency basis, place on probation, and renew the license of an applicant or license holder under this chapter;

(3) adopt and publish a code of ethics; and

(4) by rule adopt a list of authorized counseling methods or practices that a license holder may undertake or perform[~~, and~~

~~[(5) adopt an official seal].~~

(b) The executive council [~~board~~] may request and shall receive the assistance of a state educational institution or other state agency.

SECTION 2.081. Subchapter E, Chapter 503, Occupations Code, is amended by adding Section 503.2015 to read as follows:

Sec. 503.2015. BOARD DUTIES. The board shall propose to the executive council:

(1) rules regarding:

(A) the qualifications necessary to obtain a license, including rules limiting an applicant's eligibility for a license based on the applicant's criminal history;

1                    (B) the scope of practice of and standards of  
2 care and ethical practice for professional counseling; and

3                    (C) continuing education requirements for  
4 license holders; and

5                    (2) a schedule of sanctions for violations of this  
6 chapter or rules adopted under this chapter.

7            SECTION 2.082. Section 503.207, Occupations Code, is  
8 amended to read as follows:

9            Sec. 503.207. LICENSE HOLDER REGISTRY. (a) Each year the  
10 executive council [~~board~~] shall prepare a registry of persons  
11 licensed under this chapter. The registry must include listings of  
12 any specializations permitted by law or by executive council  
13 [~~board~~] rule. The registry shall be made available on request to a  
14 license holder, another state agency, or a member of the public.

15            (b) A person licensed under this chapter shall inform the  
16 executive council [~~board~~] of the person's current address at all  
17 times.

18            SECTION 2.083. Section 503.208, Occupations Code, is  
19 amended to read as follows:

20            Sec. 503.208. COMPETENT PERFORMANCE OF PROFESSIONAL  
21 DUTIES. The executive council [~~board~~] shall identify the key  
22 factors for the competent performance by a license holder of the  
23 license holder's professional duties.

24            SECTION 2.084. Section 503.302, Occupations Code, is  
25 amended to read as follows:

26            Sec. 503.302. QUALIFICATIONS FOR LICENSE. (a) A person  
27 qualifies for a license under this chapter if the person:

(1) is at least 18 years old;

(2) has a master's or doctoral degree in counseling or a related field;

(3) has successfully completed a graduate degree at a regionally accredited institution of higher education and the number of graduate semester hours required by executive council ~~[board]~~ rule, which may not be less than 48 hours and must include 300 clock hours of supervised practicum that:

(A) is primarily counseling in nature; and

(B) meets the specific academic course content and training standards established by the executive council ~~[board]~~;

(4) has completed the number of supervised experience hours required by executive council ~~[board]~~ rule, which may not be less than 3,000 hours working in a counseling setting that meets the requirements established by the executive council ~~[board]~~ after the completion of the graduate program described by Subdivision (3);

(5) ~~[except as provided by Subsection (b),]~~ passes the license examination and jurisprudence examination required by this chapter;

(6) submits an application as required by the executive council ~~[board]~~, accompanied by the required application fee; and

(7) meets any other requirement prescribed by the executive council ~~[board]~~.

(b) ~~[(d)]~~ In establishing the standards described by Subsection (a)(3)(B), the executive council ~~[board]~~ shall review

1 and consider the standards as developed by the appropriate  
2 professional association.

3       (c) [~~(e)~~] The executive council [~~board~~] may require the  
4 statements on a license application to be made under oath.

5       SECTION 2.085. Section 503.303(b), Occupations Code, is  
6 amended to read as follows:

7       (b) The executive council [~~board~~] shall accept an  
8 individual course from an art therapy program accredited through  
9 the American Art Therapy Association as satisfying the education  
10 requirements under Section 503.302(a)(3) if at least 75 percent of  
11 the course content is substantially equivalent to the content of a  
12 course required by executive council [~~board~~] rule.

13       SECTION 2.086. Section 503.304, Occupations Code, is  
14 amended to read as follows:

15       Sec. 503.304. REVIEW OF APPLICATION. (a) Not later than  
16 the 30th day before the examination date, after investigation of a  
17 license application and review of other evidence submitted, the  
18 executive council [~~board~~] shall notify the applicant that the  
19 application and evidence submitted are:

20               (1) satisfactory and accepted; or

21               (2) unsatisfactory and rejected.

22       (b) If the executive council [~~board~~] rejects an  
23 application, the executive council [~~board~~] shall state in the  
24 notice the reasons for the rejection.

25       SECTION 2.087. Section 503.305, Occupations Code, is  
26 amended to read as follows:

27       Sec. 503.305. LICENSE EXAMINATION. (a) The executive



1 council [~~board~~] shall administer examinations to determine the  
2 competence of qualified applicants at least twice each calendar  
3 year.

4 (b) The executive council [~~board~~] shall contract with a  
5 nationally recognized testing organization to develop and  
6 administer a written professional counselor licensing examination  
7 to applicants who apply for a license under this chapter.

8 SECTION 2.088. Section 503.3055, Occupations Code, is  
9 amended to read as follows:

10 Sec. 503.3055. JURISPRUDENCE EXAMINATION. (a) The  
11 executive council [~~board~~] shall develop and administer at least  
12 twice each calendar year a jurisprudence examination to determine  
13 an applicant's knowledge of this chapter, executive council [~~board~~]  
14 rules, and any other applicable laws of this state affecting the  
15 applicant's professional counseling practice.

16 (b) The executive council [~~board~~] shall adopt rules to  
17 implement this section, including rules related to the development  
18 and administration of the examination, examination fees,  
19 guidelines for reexamination, grading the examination, and  
20 providing notice of examination results.

21 SECTION 2.089. Section 503.308, Occupations Code, is  
22 amended to read as follows:

23 Sec. 503.308. TEMPORARY LICENSE. (a) The executive  
24 council [~~board~~] by rule may provide for the issuance of a temporary  
25 license. Rules adopted under this subsection must provide a time  
26 limit for the period a temporary license is valid.

27 (b) The executive council [~~board~~] by rule may adopt a system

under which a temporary license may be issued to a person who:

(1) meets all of the academic requirements for licensing; and

(2) enters into a supervisory agreement with a supervisor approved by the executive council ~~[board]~~.

SECTION 2.090. Sections 503.310(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) On application and payment of applicable fees, the executive council ~~[board]~~ may issue a provisional license to a person who holds a license as a counselor or art therapist issued by another state or by a jurisdiction acceptable to the executive council ~~[board]~~.

(c) An applicant is not required to comply with Subsection (b)(3) if the executive council ~~[board]~~ determines that compliance with that subsection is a hardship to the applicant.

(d) A provisional license is valid until the date the executive council ~~[board]~~ approves or denies the provisional license holder's application for a license under Section 503.311.

SECTION 2.091. Section 503.311, Occupations Code, is amended to read as follows:

Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER. (a) The executive council ~~[board]~~ shall issue a license to the holder of a provisional license who applies for a license if:

(1) the executive council ~~[board]~~ verifies that the applicant has the academic and experience requirements for a regular license under this chapter; and

(2) the applicant satisfies any other license

1 requirements under this chapter.

2 (b) The executive council [~~board~~] must complete the  
3 processing of a provisional license holder's application for a  
4 license not later than the later of:

5 (1) the 180th day after the date the provisional  
6 license is issued; or

7 (2) the date licenses are issued following completion  
8 of the next licensing and jurisprudence examinations  
9 [~~examination~~].

10 SECTION 2.092. Sections 503.312(a) and (c), Occupations  
11 Code, are amended to read as follows:

12 (a) On request of a person licensed under this chapter, the  
13 executive council [~~board~~] shall place the person's license on  
14 inactive status.

15 (c) A person whose license is inactive may apply to  
16 reactivate the license. The executive council [~~board~~] shall  
17 reactivate the license if the applicant:

18 (1) pays a license fee;

19 (2) is not in violation of this chapter when the  
20 applicant applies to reactivate the license; and

21 (3) fulfills the requirements provided by executive  
22 council [~~board~~] rule for the holder of an inactive license.

23 SECTION 2.093. Section 503.313, Occupations Code, is  
24 amended to read as follows:

25 Sec. 503.313. RETIREMENT STATUS. The executive council  
26 [~~board~~] by rule may adopt a system for placing a person licensed  
27 under this chapter on retirement status.

SECTION 2.094. Section 503.314(b), Occupations Code, is amended to read as follows:

(b) A license certificate issued by the executive council [~~board~~] is the property of the executive council [~~board~~] and must be surrendered on demand.

SECTION 2.095. Section 503.351, Occupations Code, is amended to read as follows:

Sec. 503.351. RENEWAL; ELIGIBILITY. A person licensed under this chapter may renew the license biennially if the person:

(1) is not in violation of this chapter when the person applies for renewal; and

(2) fulfills the continuing education requirements established by the executive council [~~board~~].

SECTION 2.096. Section 503.352, Occupations Code, is amended to read as follows:

Sec. 503.352. LICENSE EXPIRATION DATE. The executive council [~~board~~] shall adopt a system under which licenses expire on various dates during the year. On renewal of the license on the expiration date, the total license renewal fee is payable.

SECTION 2.097. Section 503.353, Occupations Code, is amended to read as follows:

Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the expiration date of a person's license, the executive council [~~board~~] shall send written notice of the impending license expiration to the person at the person's last known address according to the executive council's [~~board's~~] records.

SECTION 2.098. The heading to Subchapter I, Chapter 503, Occupations Code, is amended to read as follows:

SUBCHAPTER I. DISCIPLINARY ACTIONS [~~PROCEDURES~~]

SECTION 2.099. Section 503.401(a), Occupations Code, is amended to read as follows:

(a) A person licensed under this chapter is subject to disciplinary action under Subchapter G, Chapter 506, [~~this section~~] if the person:

(1) violates this chapter or a rule or code of ethics adopted under this chapter [~~by the board~~];

(2) commits an act for which the license holder would be liable under Chapter 81, Civil Practice and Remedies Code;

(3) is legally committed to an institution because of mental incompetence from any cause; or

(4) directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a patient or patronage.

SECTION 2.100. Section 503.407, Occupations Code, is amended to read as follows:

Sec. 503.407. REFUND. (a) Subject to Subsection (b), the executive council [~~board~~] may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

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

1 service regulated by this chapter. The executive council [~~board~~]  
2 may not require payment of other damages or estimate harm in a  
3 refund order.

4 SECTION 2.101. Section 503.453, Occupations Code, is  
5 amended to read as follows:

6 Sec. 503.453. REPORT OF ALLEGED OFFENSE. The executive  
7 council [~~board~~] shall notify the appropriate prosecuting attorney  
8 of an alleged offense committed under this chapter.

9 SECTION 2.102. Sections 504.001(4), (6), (8), and (9),  
10 Occupations Code, are amended to read as follows:

11 (4) "Clinical training institution" means a person  
12 registered with the executive council [~~department~~] in accordance  
13 with Section 504.1521 to supervise a counselor intern.

14 (6) "Counselor intern" means a person registered with  
15 the executive council [~~department~~] in accordance with Section  
16 504.1515.

17 (8) "Executive council" [~~commissioner~~] means the  
18 Texas Behavioral Health Executive Council [~~executive commissioner~~  
19 ~~of the Health and Human Services Commission~~].

20 (9) "Peer assistance program" means a program approved  
21 by the executive council [~~department~~] under Section 504.057.

22 SECTION 2.103. The heading to Subchapter B, Chapter 504,  
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COUNCIL [~~COMMISSIONER~~  
25 ~~AND DEPARTMENT~~]

26 SECTION 2.104. Section 504.051, Occupations Code, is  
27 amended to read as follows:

1           Sec. 504.051. GENERAL POWERS AND DUTIES [~~OF EXECUTIVE~~  
2 ~~COMMISSIONER~~]. The executive council [~~commissioner~~] shall:

3               (1) adopt rules as necessary for the performance of  
4 its duties under this chapter;

5               (2) establish standards of conduct and ethics for  
6 persons licensed under this chapter; and

7               (3) establish any additional criteria for peer  
8 assistance programs for chemical dependency counselors that the  
9 executive council [~~commissioner~~] determines necessary.

10          SECTION 2.105. Section [504.052](#), Occupations Code, is  
11 amended to read as follows:

12          Sec. 504.052. DISCRIMINATION PROHIBITED. In taking an  
13 action or making a decision under this chapter, the executive  
14 council [~~commissioner, commissioner, and department~~] shall do so  
15 without regard to the sex, race, religion, national origin, color,  
16 or political affiliation of the person affected. For purposes of  
17 this section, taking an action or making a decision under this  
18 chapter includes:

19               (1) considering a license application;

20               (2) conducting an examination;

21               (3) adopting or enforcing a rule; and

22               (4) conducting a disciplinary proceeding.

23          SECTION 2.106. Sections [504.055](#)(a), (b), and (d),  
24 Occupations Code, are amended to read as follows:

25               (a) The executive council [~~department~~] may prepare and  
26 publish a roster showing the name and address, as reflected by the  
27 executive council's [~~department's~~] records, of each chemical

1 dependency counselor.

2 (b) If the executive council ~~[department]~~ publishes a  
3 roster under this section, the executive council ~~[department]~~ shall  
4 mail a copy of the roster to each person licensed under this chapter  
5 ~~[by the department]~~ and shall file a copy of the roster with the  
6 secretary of state.

7 (d) The executive council ~~[department]~~ may charge a fee ~~[in~~  
8 ~~an amount set by the executive commissioner by rule]~~ for the roster  
9 published under this section.

10 SECTION 2.107. Section 504.057, Occupations Code, is  
11 amended to read as follows:

12 Sec. 504.057. APPROVAL OF PEER ASSISTANCE PROGRAMS. (a)  
13 The executive council ~~[department]~~ shall approve one or more peer  
14 assistance programs established ~~[by the department or a~~  
15 ~~professional association]~~ in accordance with Chapter 467, Health  
16 and Safety Code, from which persons licensed under this chapter may  
17 seek assistance.

18 (b) The executive council ~~[department]~~ shall approve a peer  
19 assistance program that:

20 (1) meets the minimum criteria established ~~[by the~~  
21 ~~executive commissioner or department]~~ under Chapter 467, Health and  
22 Safety Code;

23 (2) meets any additional criteria established by the  
24 executive council ~~[commissioner or department]~~ for chemical  
25 dependency counselors licensed under this chapter; and

26 (3) is designed to assist a chemical dependency  
27 counselor whose ability to perform a professional service is



1 impaired by abuse of or dependency on drugs or alcohol.

2 (c) The executive council [~~department~~] shall maintain a  
3 list of approved peer assistance programs for licensed chemical  
4 dependency counselors on the executive council's [~~department's~~]  
5 Internet website.

6 SECTION 2.108. Section 504.058, Occupations Code, is  
7 amended to read as follows:

8 Sec. 504.058. FUNDING FOR CHEMICAL DEPENDENCY COUNSELOR  
9 PROGRAMS. (a) The executive council [~~commissioner~~] shall add a  
10 surcharge of not more than \$10 to the license or license renewal fee  
11 for a license under this chapter to fund approved peer assistance  
12 programs for chemical dependency counselors. Money collected from  
13 the surcharge shall be remitted to the comptroller for deposit to  
14 the credit of the chemical dependency counselor account. The  
15 chemical dependency counselor account is an account in the general  
16 revenue fund.

17 (b) Subject to the General Appropriations Act, the  
18 executive council [~~department~~] may use the money from the surcharge  
19 collected under this section and deposited in the chemical  
20 dependency counselor account only to fund approved peer assistance  
21 programs and to pay the administrative costs incurred by the  
22 executive council [~~department~~] that are related to the programs.

23 SECTION 2.109. Subchapter B, Chapter 504, Occupations Code,  
24 is amended by adding Section 504.059 to read as follows:

25 Sec. 504.059. ADVISORY BOARD. The executive council shall  
26 establish an advisory board to provide advice and recommendations  
27 to the executive council on technical matters relevant to the

1 administration of this chapter. Chapter 2110, Government Code,  
2 does not apply to the duration of the advisory board.

3 SECTION 2.110. Section 504.1511, Occupations Code, is  
4 amended to read as follows:

5 Sec. 504.1511. OTHER CERTIFICATIONS INCLUDED ON LICENSE. A  
6 license issued under this chapter must include an area on which a  
7 license holder may apply an adhesive label issued by the Texas  
8 Certification Board of Addiction Professionals with the  
9 designation and expiration date of any other related certification  
10 held by the license holder that is approved by the International  
11 Certification and Reciprocity Consortium or another entity  
12 approved by the executive council ~~[department]~~.

13 SECTION 2.111. Section 504.1515, Occupations Code, is  
14 amended to read as follows:

15 Sec. 504.1515. COUNSELOR INTERNS. (a) A person seeking a  
16 license as a chemical dependency counselor shall register with the  
17 executive council ~~[department]~~ as a counselor intern by submitting,  
18 in a form acceptable to the executive council ~~[department]~~, the  
19 following:

20 (1) an application fee and a background investigation  
21 fee;

22 (2) a completed, signed, dated, and notarized  
23 application on a form prescribed by the executive council  
24 ~~[department]~~;

25 (3) a recent full-face wallet-sized photograph of the  
26 applicant;

27 (4) two sets of fingerprints completed in accordance

1 with executive council [~~department~~] instructions on cards issued by  
2 the executive council [~~department~~];

3 (5) documentation verifying the applicant  
4 successfully completed:

5 (A) 270 total hours of approved curricula  
6 described by Section 504.152(a)(3)(A) [~~504.152(3)(A)~~]; and

7 (B) 300 hours of approved supervised field work  
8 practicum described by Section 504.152(a)(3)(C) [~~504.152(3)(C)~~];  
9 and

10 (6) documentation verifying the applicant received a  
11 high school diploma or its equivalent.

12 (b) The executive council [~~department~~] may obtain criminal  
13 history record information relating to a counselor intern or an  
14 applicant for registration as a counselor intern from the  
15 Department of Public Safety and the Federal Bureau of  
16 Investigation.

17 SECTION 2.112. Section 504.152, Occupations Code, is  
18 amended to read as follows:

19 Sec. 504.152. ELIGIBILITY REQUIREMENTS. (a) To be  
20 eligible for a license under this chapter, a person must:

21 (1) be at least 18 years of age;  
22 (2) hold an associate degree or a more advanced  
23 degree;

24 (3) have completed:  
25 (A) 135 hours, or nine semester hours, specific  
26 to substance abuse disorders and treatment and an additional 135  
27 hours, or nine semester hours, specific or related to chemical

1 dependency counseling;

2 (B) 4,000 hours of approved supervised  
3 experience working with chemically dependent persons; and

4 (C) 300 hours of approved supervised field work  
5 practicum;

6 (4) provide two letters of reference from chemical  
7 dependency counselors;

8 (5) pass a written examination approved by the  
9 executive council ~~[department]~~;

10 (6) submit a case presentation to the test  
11 administrator;

12 (7) be determined by the executive council  
13 ~~[department]~~ to be worthy of the public trust and confidence;

14 (8) successfully complete the chemical dependency  
15 counselor examination under Section 504.156;

16 (9) sign a written agreement to comply with the  
17 standards of ethics approved by the executive council ~~[department]~~;  
18 and

19 (10) provide to the executive council ~~[department]~~  
20 written assurance that the applicant has access to a peer  
21 assistance program.

22 (b) The executive council ~~[department]~~ may waive the  
23 requirement under Subsection (a)(10) if the executive council  
24 ~~[department]~~ determines that a peer assistance program is not  
25 reasonably available to the license holder.

26 SECTION 2.113. Section 504.1521(b), Occupations Code, is  
27 amended to read as follows:

(b) The executive council [~~commissioner~~] shall adopt rules necessary to:

(1) register clinical training institutions that meet the criteria established by the executive council [~~commissioner~~] to protect the safety and welfare of the people of this state; and

(2) certify clinical supervisors who hold certification credentials approved by the executive council [~~department~~] or by a person designated by the executive council [~~department~~], such as the International Certification and Reciprocity Consortium or another person that meets the criteria established by the executive council [~~commissioner~~] to protect the safety and welfare of the people of this state.

SECTION 2.114. Sections 504.1525(a) and (b), Occupations Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the executive council [~~department~~] may not issue a license, registration, or certification under this chapter to an applicant who has been:

(1) convicted or placed on community supervision during the three years preceding the date of application in any jurisdiction for an offense equal to a Class B misdemeanor specified by executive council [~~department~~] rule;

(2) convicted or placed on community supervision in any jurisdiction for an offense equal to or greater than a Class A misdemeanor specified by executive council [~~department~~] rule; or

(3) found to be incapacitated by a court on the basis of a mental defect or disease.

(b) The executive council [~~department~~] may issue a license,

1 registration, or certification to a person convicted or placed on  
2 community supervision in any jurisdiction for a drug or alcohol  
3 offense described by Subsection (a)(1) or (2) if the executive  
4 council [~~department~~] determines that the applicant has  
5 successfully completed participation in an approved peer  
6 assistance program.

7 SECTION 2.115. Section 504.153, Occupations Code, is  
8 amended to read as follows:

9 Sec. 504.153. ALTERNATIVE QUALIFICATIONS AND EVIDENCE OF  
10 LICENSE REQUIREMENT SATISFACTION. (a) An applicant is exempt from  
11 the requirements of Sections 504.152(a)(3)(A) [~~504.152(3)(A)~~] and  
12 (C) if the applicant holds a baccalaureate degree or a more advanced  
13 degree in:

14 (1) chemical dependency counseling; or  
15 (2) psychology, sociology, or any other related  
16 program approved by the executive council [~~department~~].

17 (b) On presentation of documentation by an applicant who  
18 holds a degree described by Subsection (a), the executive council  
19 [~~department~~] may waive any portion of the requirement established  
20 by Section 504.152(a)(3)(B) [~~504.152(3)(B)~~] that the executive  
21 council [~~department~~] determines has been satisfied as evidenced by  
22 the documentation.

23 SECTION 2.116. Section 504.155, Occupations Code, is  
24 amended to read as follows:

25 Sec. 504.155. LICENSE APPLICATION. (a) An application for  
26 a license under this chapter must:

27 (1) be on a form prescribed and furnished by the

executive council ~~[department]~~; and

(2) contain a statement made under oath of the applicant's education, experience, and other qualifications established by the executive council ~~[department]~~ as required for a license under this chapter.

(b) The executive council ~~[department]~~ may require additional information regarding the quality, scope, and nature of the experience and competence of the applicant if the executive council ~~[department]~~ determines that a person's application lacks sufficient information for consideration by the executive council ~~[department]~~.

(c) The executive council ~~[department]~~ may obtain criminal history record information relating to an applicant for a license under this chapter from the Department of Public Safety and the Federal Bureau of Investigation. The executive council ~~[department]~~ may deny an application for a license if the applicant fails to provide two complete sets of fingerprints on a form prescribed by the executive council ~~[department]~~.

(d) The issuance of a license by the executive council ~~[department]~~ is conditioned on the receipt by the executive council ~~[department]~~ of the applicant's criminal history record information.

SECTION 2.117. Section 504.156(a), Occupations Code, is amended to read as follows:

(a) At least twice each year, the executive council ~~[department]~~ may prepare and administer or contract with an organization approved by the International Certification and

Reciprocity Consortium to prepare and administer an examination to determine the qualifications of an applicant for a license under this chapter. The examination shall be conducted as determined by the executive council ~~[department]~~ and in a manner that is fair and impartial to and takes into consideration each school or system of chemical dependency counseling.

SECTION 2.118. Section 504.158, Occupations Code, is amended to read as follows:

Sec. 504.158. PROVISIONAL LICENSE. (a) The executive council ~~[department]~~ may issue a provisional license to an applicant who is licensed in another state. An applicant for a provisional license under this section must:

(1) be licensed in good standing as a chemical dependency counselor at least two years in another state or country that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the executive council ~~[department]~~ relating to the practice of chemical dependency counseling; and

(3) be sponsored by a person licensed ~~[by the department]~~ under this chapter with whom the provisional license holder may practice.

(b) The executive council ~~[department]~~ may waive the requirement of Subsection (a)(3) if the executive council ~~[department]~~ determines that compliance with that subsection would constitute a hardship to the applicant.

(c) ~~[The executive commissioner by rule may establish a fee~~



1 ~~for a provisional license.~~

2       ~~[(d)]~~ A provisional license is valid until the date the  
3 executive council ~~[department]~~ approves or denies the provisional  
4 license holder's application for a license under Section 504.159.

5       SECTION 2.119. Section 504.159, Occupations Code, is  
6 amended to read as follows:

7       Sec. 504.159. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE  
8 HOLDER. (a) The executive council ~~[department]~~ shall issue a  
9 license under this chapter to a provisional license holder who  
10 satisfies the eligibility requirements established by Section  
11 504.152. When issuing a license under this subsection, the  
12 executive council ~~[department]~~ may waive the requirements  
13 established by Sections 504.152(a)(6) ~~[504.152(6), (7),~~ and (8)  
14 ~~[(9)]~~.

15       (b) The executive council ~~[department]~~ shall complete the  
16 processing of a provisional license holder's application for a  
17 license not later than the 180th day after the date the provisional  
18 license is issued. The executive council ~~[department]~~ may extend  
19 the 180-day period if the executive council ~~[department]~~ has not  
20 received information necessary to determine whether the applicant  
21 is eligible for a license as provided by Subsection (a).

22       SECTION 2.120. Section 504.160, Occupations Code, is  
23 amended to read as follows:

24       Sec. 504.160. ISSUANCE OF LICENSE TO CERTAIN OUT-OF-STATE  
25 APPLICANTS. (a) The executive council ~~[department]~~ may, on  
26 application and payment of the appropriate fee, issue a license to a  
27 person who is licensed or certified by another state as a chemical

dependency counselor if the executive council ~~[department]~~ determines that the license or certificate requirements of that state are substantially equivalent to the requirements of this chapter.

(b) The executive council ~~[department]~~ may waive any license requirement for an applicant with a license or certificate issued by another state with which this state has a reciprocity agreement.

SECTION 2.121. Section 504.201(a), Occupations Code, is amended to read as follows:

(a) A license issued under this chapter expires on the second anniversary of the date of issuance. The executive council ~~[commissioner]~~ by rule shall adopt a system under which licenses expire on various dates during the year.

SECTION 2.122. Section 504.202, Occupations Code, is amended to read as follows:

Sec. 504.202. NOTICE OF LICENSE EXPIRATION AND REQUIREMENTS TO RENEW. Not later than the 31st day before the expiration date of a person's license, the executive council ~~[department]~~ shall send to the license holder at the license holder's last known address according to the executive council's ~~[department]~~ records written notice of:

- (1) the impending license expiration;
- (2) the amount of the renewal fee; and
- (3) any continuing education required to renew the license.

SECTION 2.123. Section 504.2025, Occupations Code, is

1 amended to read as follows:

2       Sec. 504.2025. CERTAIN GROUNDS FOR REFUSAL TO RENEW  
3 LICENSE, REGISTRATION, OR CERTIFICATION. (a) Except as provided  
4 by Subsection (b), the executive council [~~department~~] shall refuse  
5 to renew a license, registration, or certification under this  
6 chapter on receipt of information from the Department of Public  
7 Safety or another law enforcement agency that the person has been  
8 convicted, placed on community supervision, or found to be  
9 incapacitated as described by Section 504.1525.

10       (b) The executive council [~~department~~] may renew a license  
11 under this chapter if the executive council [~~department~~] determines  
12 that the person has successfully completed participation in an  
13 approved peer assistance program subsequent to the conviction or  
14 placement on community supervision for an offense described by  
15 Section 504.1525(b).

16       SECTION 2.124. Section 504.2026, Occupations Code, is  
17 amended to read as follows:

18       Sec. 504.2026. REFUSAL TO RENEW LICENSE: ACCESS TO PEER  
19 ASSISTANCE PROGRAM. (a) Except as provided by Subsection (b), the  
20 executive council [~~department~~] may not renew a license under this  
21 chapter unless the license holder provides to the executive council  
22 [~~department~~] written documentation that the license holder has  
23 access to an approved peer assistance program.

24       (b) The executive council [~~department~~] may waive the  
25 requirement of Subsection (a) if the executive council [~~department~~]  
26 determines that a peer assistance program is not reasonably  
27 available to the license holder.

SECTION 2.125. Section 504.205(d), Occupations Code, is amended to read as follows:

(d) Except for the number of hours required, the executive council ~~[commissioner]~~ may not adopt a rule ~~[under Subsection (a)]~~ that distinguishes between the continuing education requirements for a license holder subject to Subsection (b) and a license holder subject to Subsection (c).

SECTION 2.126. Sections 504.206(b) and (d), Occupations Code, are amended to read as follows:

(b) The executive council ~~[department]~~ shall recognize, prepare, or administer a training component that satisfies the requirement of Subsection (a) for use in continuing education for chemical dependency counselors.

(d) In developing the training component, the executive council ~~[department]~~ may, to the extent appropriate, consider the training course relating to hepatitis C developed by the Department of State Health Services ~~[department]~~ under Section 94.002, Health and Safety Code.

SECTION 2.127. The heading to Subchapter F, Chapter 504, Occupations Code, is amended to read as follows:

SUBCHAPTER F. DISCIPLINARY ACTIONS ~~[PROCEEDINGS]~~

SECTION 2.128. Section 504.251, Occupations Code, is amended to read as follows:

Sec. 504.251. GROUNDS FOR ~~[LICENSE, REGISTRATION, OR CERTIFICATION DENIAL OR]~~ DISCIPLINARY ACTION. The executive council ~~[department]~~ shall take disciplinary action under Subchapter G, Chapter 506, against an ~~[refuse to issue a license,~~

~~1 registration, or certification issued by the department to an~~  
~~2 applicant, refuse to renew a license, registration, or~~  
~~3 certification holder's license, registration, or certification~~  
~~4 issued by the department, or take disciplinary action against the~~  
~~5 holder of a license, registration, or certification issued by the~~  
~~6 department if the]~~ applicant or license, registration, or  
7 certification holder who:

8           (1) violates or assists another to violate this  
9 chapter or a rule adopted under this chapter;

10           (2) circumvents or attempts to circumvent this chapter  
11 or a rule adopted under this chapter;

12           (3) directly or indirectly participates in a plan to  
13 evade this chapter or a rule adopted under this chapter;

14           (4) has a license to practice chemical dependency  
15 counseling in another jurisdiction refused, suspended, or revoked  
16 for a reason that the executive council [~~department~~] determines  
17 would constitute a violation of this chapter or a rule adopted under  
18 this chapter;

19           (5) engages in false, misleading, or deceptive conduct  
20 as defined by Section [17.46](#), Business & Commerce Code;

21           (6) engages in conduct that discredits or tends to  
22 discredit the profession of chemical dependency counseling;

23           (7) directly or indirectly reveals a confidential  
24 communication made to the person by a client or recipient of  
25 services, except as required by law;

26           (8) refuses to perform an act or service the person is  
27 licensed, registered, or certified to perform under this chapter on

the basis of the client's or recipient's age, sex, race, religion,  
national origin, color, or political affiliation; or

(9) commits an act for which liability exists under  
Chapter 81, Civil Practice and Remedies Code.

SECTION 2.129. Section 504.2525(a), Occupations Code, is  
amended to read as follows:

(a) The executive council ~~[department]~~ shall suspend a  
~~[the]~~ license, registration, or certification issued under this  
chapter ~~[by the department of a license, registration, or~~  
~~certification holder]~~ if the executive council ~~[department]~~  
receives written notice from the Department of Public Safety or  
another law enforcement agency that the license, registration, or  
certification holder has been charged, indicted, placed on deferred  
adjudication, community supervision, or probation, or convicted of  
an offense described by Section 504.1525.

SECTION 2.130. Sections 504.255(a) and (c), Occupations  
Code, are amended to read as follows:

(a) A person whose license, registration, or certification  
application is denied under Section 504.1525, whose license,  
registration, or certification renewal is refused under Section  
504.2025, or whose license, registration, or certification is  
suspended under Section 504.2525 may appeal the denial, refusal to  
renew, or suspension on the grounds that:

(1) the sole basis for the executive council's  
~~[department's]~~ determination is a conviction or placement on  
community supervision for an offense described by Section 504.1525;  
and

(2) sufficient time, as determined by executive council ~~[department]~~ rule, has expired since the date of the conviction or placement.

(c) After a hearing under this section, the executive council ~~[department]~~ may determine that the person is entitled to a license, registration, or certification under this chapter.

SECTION 2.131. Section 505.002, Occupations Code, is amended to read as follows:

Sec. 505.002. DEFINITIONS. In this chapter:

(1) ~~[(2)]~~ "Board" means the Texas State Board of Social Worker Examiners.

(2) ~~[(3)]~~ "Council on Social Work Education" means the national organization that is primarily responsible for the accreditation of schools of social work in the United States or its successor approved by the executive council ~~[board]~~.

(3) "Executive council" means the Texas Behavioral Health Executive Council.

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

~~[(4-a)]~~ "Licensed baccalaureate social worker" means a person who holds a baccalaureate social worker license issued ~~[by the board]~~ under this chapter.

(5) ~~[(4-b)]~~ "Licensed clinical social worker" means a person who holds a clinical social worker license issued ~~[by the board]~~ under this chapter.

(6) ~~[(5)]~~ "Licensed master social worker" means a person who holds a master social worker license issued ~~[by the board]~~.

1 ~~board~~] under this chapter.

2           (7) ~~[(6)]~~ "Licensed social worker" means a person who  
3 holds a social worker license issued ~~[by the board]~~ under this  
4 chapter.

5           (8) ~~[(9)]~~ "Social worker" means a person who holds any  
6 license issued ~~[by the board]~~ under this chapter.

7           SECTION 2.132. Section 505.102(b), Occupations Code, is  
8 amended to read as follows:

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

11           (1) the person is registered, certified, or licensed  
12 by an occupational regulatory agency in the field of health care;

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

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

17           (A) is employed by or participates in the  
18 management of a business entity or other organization regulated by  
19 or receiving funds from the board or executive council  
20 ~~[department]~~;

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

25           (C) uses or receives a substantial amount of  
26 tangible goods, services, or funds from the board or executive  
27 council ~~[department]~~, other than compensation or reimbursement



1 authorized by law for board membership, attendance, or expenses.

2 SECTION 2.133. The heading to Section 505.103, Occupations  
3 Code, is amended to read as follows:

4 Sec. 505.103. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

5 SECTION 2.134. Sections 505.103(b) and (c), Occupations  
6 Code, are amended to read as follows:

7 (b) A person may not be a member of the board [~~and may not be~~  
8 ~~an employee of the department employed in a "bona fide executive,~~  
9 ~~administrative, or professional capacity," as that phrase is used~~  
10 ~~for purposes of establishing an exemption to the overtime~~  
11 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
12 ~~U.S.C. Section 201 et seq.)~~] if:

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

16 (2) the person's spouse is an officer, manager, or paid  
17 consultant of a Texas trade association in the field of mental  
18 health.

19 (c) A person may not be a member of the board [~~or act as~~  
20 ~~general counsel to the board or the department~~] if the person is  
21 required to register as a lobbyist under Chapter 305, Government  
22 Code, because of the person's activities for compensation on behalf  
23 of a profession related to the operation of the board.

24 SECTION 2.135. Section 505.109, Occupations Code, is  
25 amended by amending Subsection (b) and adding Subsection (d) to  
26 read as follows:

27 (b) The training program must provide the person with

1 information regarding:

2 (1) the law governing [~~legislation that created the~~]  
3 board operations;

4 (2) [~~and~~] the [~~board's~~] programs, functions, rules,  
5 and budget of the board;

6 (3) the scope of and limitations on the rulemaking  
7 authority of the board;

8 (4) [~~(2)~~] the results of the most recent formal audit  
9 of the board;

10 (5) [~~(3)~~] the requirements of:

11 (A) laws relating to open meetings, public  
12 information, administrative procedure, and disclosing conflicts of  
13 interest; and

14 (B) other laws applicable to members of the board  
15 in performing their duties; and

16 (6) [~~(4)~~] any applicable ethics policies adopted by  
17 the board or the Texas Ethics Commission.

18 (d) The executive director of the executive council shall  
19 create a training manual that includes the information required by  
20 Subsection (b). The executive director shall distribute a copy of  
21 the training manual annually to each board member. On receipt of the  
22 training manual, each board member shall sign and submit to the  
23 executive director a statement acknowledging receipt of the  
24 training manual.

25 SECTION 2.136. Section 505.201, Occupations Code, is  
26 amended to read as follows:

27 Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY

1 OF EXECUTIVE COUNCIL. (a) The executive council [~~board~~] may:

2 (1) adopt and enforce rules necessary to perform the  
3 executive council's [~~board's~~] duties under this chapter;

4 (2) establish standards of conduct and ethics for  
5 license holders; and

6 (3) ensure strict compliance with and enforcement of  
7 this chapter.

8 (b) [~~In adopting rules under this section, the board shall~~  
9 ~~consider the rules and procedures of the department. The board~~  
10 ~~shall adopt procedural rules, which may not be inconsistent with~~  
11 ~~similar rules and procedures of the department.~~

12 [~~(c)~~] The executive council [~~board~~] by rule may define a  
13 term not defined under Section 505.002 if a definition is necessary  
14 to administer or enforce this chapter.

15 (c) [~~(c)~~] For each type of license issued under this  
16 chapter, the executive council [~~board~~] shall establish:

17 (1) the minimum eligibility requirements;

18 (2) educational requirements;

19 (3) professional experience criteria;

20 (4) supervision requirements; and

21 (5) independent practice criteria.

22 (d) [~~(f)~~] The executive council [~~board~~] shall establish  
23 procedures for recognition of independent practice.

24 SECTION 2.137. Subchapter D, Chapter 505, Occupations Code,  
25 is amended by adding Section 505.2015 to read as follows:

26 Sec. 505.2015. BOARD DUTIES. The board shall propose to the  
27 executive council:

1           (1) rules regarding:

2                   (A) the qualifications necessary to obtain a  
3 license or order of recognition of specialty, including rules  
4 limiting an applicant's eligibility for a license or order based on  
5 the applicant's criminal history;

6                   (B) the scope of practice of and standards of  
7 care and ethical practice for social work; and

8                   (C) continuing education requirements for  
9 license holders or holders of orders of recognition of specialty;  
10 and

11           (2) a schedule of sanctions for violations of this  
12 chapter or rules adopted under this chapter.

13           SECTION 2.138. Section 505.205, Occupations Code, is  
14 amended to read as follows:

15           Sec. 505.205. ROSTER OF LICENSE HOLDERS. (a) The executive  
16 council [~~board~~] shall prepare and publish at its discretion a  
17 roster that contains the name and address of each person licensed  
18 under this chapter.

19           (b) The executive council [~~board~~] shall mail a copy of the  
20 roster to each license holder.

21           (c) The executive council [~~board~~] may not include in the  
22 roster the name and address of a person who is delinquent in the  
23 payment of a fee required under this chapter on the date the roster  
24 is sent for printing.

25           SECTION 2.139. Section 505.206, Occupations Code, is  
26 amended to read as follows:

27           Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. The

1 executive council [~~board~~] shall publish a roster of persons  
2 recognized under Section 505.307 as qualified for the independent  
3 practice of social work.

4 SECTION 2.140. Section 505.301, Occupations Code, is  
5 amended to read as follows:

6 Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The  
7 executive council [~~board~~] may establish within the scope of social  
8 work practice and this chapter specialty areas of social work for  
9 license holders under this chapter who are licensed in good  
10 standing if establishment of the specialty areas:

11 (1) is necessary to promote the public interest; and

12 (2) assists the public in identifying qualified  
13 persons in a social work practice specialty.

14 (b) The executive council [~~board~~] may not authorize a  
15 specialty area within the practice of social work unless the  
16 executive council [~~board~~] sets the minimum qualifications for  
17 social work practice with appropriate supervision and examination,  
18 as determined by the executive council [~~board~~].

19 (c) The executive council [~~board~~] may not establish a  
20 specialty area of social work or a specialty area identification  
21 that conflicts with a state licensing law.

22 SECTION 2.141. Section 505.302(a), Occupations Code, is  
23 amended to read as follows:

24 (a) In establishing a specialty area of social work, the  
25 executive council [~~board~~] shall:

26 (1) define the scope of the specialty;

27 (2) establish qualifications for specialty area

1 practitioners that describe, in accordance with Subdivision (1),  
2 the scope of the specialty area;

3 (3) adopt rules of conduct to ensure strict compliance  
4 with and enforcement of this chapter; and

5 (4) adopt rules for the suspension or revocation of an  
6 order of recognition of specialty.

7 SECTION 2.142. Sections 505.303(a) and (c), Occupations  
8 Code, are amended to read as follows:

9 (a) The executive council [~~board~~] shall establish a  
10 specialty area for the practice of clinical social work that is  
11 available only to a licensed master social worker who satisfies the  
12 minimum number of years of active social work practice with  
13 appropriate supervision and clinical examination, as determined by  
14 the executive council [~~board~~].

15 (c) For purposes of Subchapter C, Chapter 1451, Insurance  
16 Code:

17 (1) a person recognized as qualified for the  
18 independent practice of clinical social work may use the title  
19 "Licensed Clinical Social Worker" or another title approved by the  
20 executive council [~~board~~]; and

21 (2) a [~~board-approved~~] title approved by the executive  
22 council under this subsection has the same meaning and effect as the  
23 title "Licensed Clinical Social Worker."

24 SECTION 2.143. Section 505.304, Occupations Code, is  
25 amended to read as follows:

26 Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The  
27 executive council [~~board~~] shall prescribe the name, design, and

content of an order of recognition of specialty.

(b) An order of recognition of specialty must:

(1) state the full name of the person recognized in the order; and

(2) state the official specialty serial number [~~+~~

~~[(3) include the presiding officer's signature; and~~

~~[(4) include the board's official seal].~~

SECTION 2.144. Section 505.305, Occupations Code, is amended to read as follows:

Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER.

(a) The executive council [~~board~~] shall recognize a social worker as qualified for the practice of a specialty area of social work if the social worker satisfies the recognition requirements established by the executive council [~~board~~] and the executive council [~~board~~] determines that the person is worthy of the public trust in performing services within the scope of the specialty area.

(b) The executive council [~~board~~] shall issue an order of recognition of specialty to a social worker who is recognized as qualified for the practice of a specialty area of social work. The order of recognition of specialty evidences the state's recognition of the social worker as a specialty social work practitioner under the identification or title designated by the executive council [~~board~~].

SECTION 2.145. Section 505.306, Occupations Code, is amended to read as follows:

Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA

1 IDENTIFICATION OR TITLE. If the executive council [~~board~~]  
2 establishes a specialty area of social work, a social worker may not  
3 use the specialty area identification or title designated by the  
4 executive council [~~board~~] unless the person is recognized as  
5 qualified for the practice of the specialty area under this  
6 chapter.

7 SECTION 2.146. Section 505.307, Occupations Code, is  
8 amended to read as follows:

9 Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM  
10 QUALIFICATIONS. (a) The executive council [~~board~~] shall establish  
11 procedures for recognizing a social worker qualified for the  
12 independent practice of social work.

13 (b) A social worker may not be recognized as qualified for  
14 the independent practice of social work unless the person satisfies  
15 the requirements of social work education, experience, and  
16 supervision as determined by the executive council [~~board~~].

17 SECTION 2.147. Section 505.352, Occupations Code, is  
18 amended to read as follows:

19 Sec. 505.352. LICENSE APPLICATION. A person may apply for a  
20 license under this chapter by submitting an application to the  
21 executive council [~~board~~]. The application must:

22 (1) be on a form prescribed by the executive council  
23 [~~board~~]; and

24 (2) contain statements made under oath regarding the  
25 applicant's education and experience and any other information  
26 required by the executive council [~~board~~] that qualifies the  
27 applicant for a license.



SECTION 2.148. Section 505.353, Occupations Code, is amended to read as follows:

Sec. 505.353. ELIGIBILITY. (a) To be eligible for a license under this chapter, an applicant must:

- (1) be at least 18 years of age;
- (2) be worthy of the public trust and confidence;
- (3) satisfy the education and experience requirements under this section; and
- (4) pass the licensing examination conducted by the executive council ~~[board]~~ under Section 505.354 and the jurisprudence examination conducted by the executive council ~~[board]~~ under Section 505.3545.

(b) An applicant may take the licensing examination conducted by the executive council ~~[board]~~ under Section 505.354 for:

(1) a master social worker license if the applicant possesses a doctoral or master's degree in social work from a graduate program that is accredited by or is in candidacy for accreditation by the Council on Social Work Education;

(2) a baccalaureate social worker license if the applicant possesses a baccalaureate degree in social work from an educational program that is accredited by or is in candidacy for accreditation by the Council on Social Work Education; or

(3) a clinical social worker license if the applicant possesses a doctoral or master's degree in social work from an accredited graduate program approved by the executive council ~~[board]~~ and meets the qualifications for clinical social work

1 practice as determined by the executive council [~~board~~] under this  
2 chapter.

3 (c) The executive council [~~board~~] may require an applicant  
4 to submit documentary evidence of the quality, scope, and nature of  
5 the applicant's experience and competence to:

6 (1) determine the credibility and acceptability of the  
7 applicant's professional or technical experience or competence;  
8 and

9 (2) ensure the public safety, health, and welfare.

10 SECTION 2.149. Sections 505.354(a), (b), and (e),  
11 Occupations Code, are amended to read as follows:

12 (a) The executive council [~~board~~], at least once each  
13 calendar year, shall prepare and administer an examination to  
14 assess an applicant's qualifications for a license under this  
15 chapter.

16 (b) Each license examination shall be conducted in a manner  
17 that is determined by the executive council [~~board~~] and is fair and  
18 impartial to each applicant and school or system of social work.

19 (e) The executive council [~~board~~] shall have the written  
20 portion of the examination, if any, validated by an independent  
21 testing entity.

22 SECTION 2.150. Section 505.3545, Occupations Code, is  
23 amended to read as follows:

24 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The  
25 executive council [~~board~~] shall develop and administer at least  
26 twice each calendar year a jurisprudence examination to determine  
27 an applicant's knowledge of this chapter, [~~board~~] rules adopted

1 under this chapter, and any other applicable laws of this state  
2 affecting the applicant's social work practice.

3 (b) The executive council [~~board~~] shall adopt rules to  
4 implement this section, including rules related to the development  
5 and administration of the examination, examination fees,  
6 guidelines for reexamination, grading the examination, and  
7 providing notice of examination results.

8 SECTION 2.151. Section 505.357(a), Occupations Code, is  
9 amended to read as follows:

10 (a) The executive council [~~board~~] shall issue a temporary  
11 license to an applicant who:

12 (1) has not taken the licensing examination under  
13 Section 505.354 or the jurisprudence examination under Section  
14 505.3545; and

15 (2) satisfies the requirements for obtaining a license  
16 under this chapter other than passing the licensing and  
17 jurisprudence examinations.

18 SECTION 2.152. Section 505.3575, Occupations Code, is  
19 amended to read as follows:

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

23 (1) the executive council [~~board~~] may not require an  
24 applicant who is licensed in good standing in another state to pass  
25 a licensing examination conducted by the executive council [~~board~~]  
26 under Section 505.354 if an applicant with substantially equivalent  
27 experience who resides in this state would not be required to take

1 the licensing examination; and

2 (2) the executive council [~~board~~] may issue a license  
3 to an applicant who is currently licensed in another state to  
4 independently practice social work if:

5 (A) after an assessment, the executive council  
6 [~~board~~] determines that the applicant:

7 (i) demonstrates sufficient experience and  
8 competence;

9 (ii) has passed the jurisprudence  
10 examination conducted by the executive council [~~board~~] under  
11 Section 505.3545; and

12 (iii) at the time of the application, is in  
13 good standing with the regulatory agency of the state in which the  
14 applicant is licensed; and

15 (B) the applicant presents to the executive  
16 council [~~board~~] credentials that the applicant obtained from a  
17 national accreditation organization and the executive council  
18 [~~board~~] determines that the requirements to obtain the credentials  
19 are sufficient to minimize any risk to public safety.

20 (b) When assessing the experience and competence of an  
21 applicant for the purposes of this section, the executive council  
22 [~~board~~] may take into consideration any supervision received by the  
23 applicant in another state or jurisdiction if the executive council  
24 [~~board~~] determines that the supervision would be taken into  
25 consideration for the purpose of licensing or certification in the  
26 state or jurisdiction in which the applicant received the  
27 supervision.

SECTION 2.153. Section 505.358, Occupations Code, is amended to read as follows:

Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply for a provisional license as a social worker by paying the appropriate fee and filing an application with the executive council ~~[board]~~. The executive council ~~[board]~~ may issue a provisional license to a person who meets the requirements of this section.

(b) An applicant for a provisional license must:

(1) be licensed or certified in good standing as a social worker in another state or jurisdiction that has licensing or certification requirements determined by the executive council ~~[board]~~ to be substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the executive council ~~[board]~~ relating to the practice of social work; and

(3) be sponsored by a person licensed under this chapter with whom the provisional license holder may practice social work.

(c) An applicant is not required to comply with Subsection (b)(3) if the executive council ~~[board]~~ determines that compliance constitutes a hardship to the applicant.

(d) A provisional license is valid until the date the executive council ~~[board]~~ approves or denies the provisional license holder's application for a license under Section 505.359.

SECTION 2.154. Section 505.359, Occupations Code, is

1 amended to read as follows:

2       Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE  
3 HOLDER. (a) The executive council [~~board~~] shall issue an  
4 appropriate license to a provisional license holder:

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

7               (2) for whom the executive council [~~board~~] verifies  
8 that the person satisfies the academic and experience requirements  
9 under Section 505.353; and

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

12       (b) The executive council [~~board~~] shall complete the  
13 processing of a provisional license holder's application for a  
14 license not later than the 180th day after the date the provisional  
15 license is issued or the date licenses are issued after successful  
16 completion of the next licensing and jurisprudence examinations,  
17 whichever date is later.

18       (c) The executive council [~~board~~] may waive a license  
19 requirement for an applicant who is licensed or certified in  
20 another state if this state has entered into a reciprocity  
21 agreement with that state.

22       SECTION 2.155. Section 505.401(a-1), Occupations Code, is  
23 amended to read as follows:

24       (a-1) The executive council [~~board~~] by rule shall adopt a  
25 system under which licenses and orders of recognition of specialty  
26 expire on various dates during the year.

27       SECTION 2.156. Section 505.405, Occupations Code, is



1 to evade the requirements of this chapter or a rule adopted [~~by the~~  
2 ~~board~~] under this chapter;

3 (4) engaging in unethical conduct;

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

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

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

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

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

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



1 this chapter;

2 (11) holding a license or certificate in another  
3 jurisdiction that is suspended or revoked for a reason that the  
4 executive council ~~[board]~~ determines would be a violation of this  
5 chapter or a rule adopted ~~[by the board]~~ under this chapter;

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

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

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

14 SECTION 2.159. Section 505.454(a), Occupations Code, is  
15 amended to read as follows:

16 (a) A person who holds an expired license or order of  
17 recognition of specialty under this chapter is subject to a  
18 sanction under this chapter if the executive council ~~[board]~~  
19 determines that the person violated this chapter or a rule adopted  
20 ~~[by the board]~~ under this chapter during the period in which the  
21 license or order was valid.

22 SECTION 2.160. Section 505.458, Occupations Code, is  
23 amended to read as follows:

24 Sec. 505.458. REFUND. (a) Subject to Subsection (b), the  
25 executive council ~~[board]~~ may order a license holder to pay a refund  
26 to a consumer as provided in an agreement resulting from an informal  
27 settlement conference instead of or in addition to imposing an

administrative penalty under this chapter.

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

SECTION 2.161. Section 505.505, Occupations Code, is amended to read as follows:

Sec. 505.505. APPEAL BOND NOT REQUIRED. The executive council [~~board or department~~] is not required to post an appeal bond in any action arising under this chapter.

SECTION 2.162. Section 505.506, Occupations Code, is amended to read as follows:

Sec. 505.506. REPRESENTATION BY ATTORNEY GENERAL. The attorney general shall represent the executive council [~~board or department~~] in an action brought to enforce this chapter.

SECTION 2.163. The following provisions of the Government Code are repealed:

(1) Section 411.1105; and

(2) Section 411.1388.

SECTION 2.164. The following provisions of the Occupations Code are repealed:

(1) Section 110.001(3-a);

(2) Subchapter C, Chapter 110;

(3) Section 110.157;

(4) Section 110.159;

- 1 (5) Subchapter F, Chapter 110;
- 2 (6) Section 110.307;
- 3 (7) Section 110.308;
- 4 (8) Section 110.352;
- 5 (9) Section 110.353;
- 6 (10) Section 110.354;
- 7 (11) Subchapter J, Chapter 110;
- 8 (12) Section 501.002(3);
- 9 (13) Section 501.005;
- 10 (14) Subchapter C, Chapter 501;
- 11 (15) Sections 501.151(a) and (b);
- 12 (16) Section 501.152;
- 13 (17) Section 501.156;
- 14 (18) Section 501.157;
- 15 (19) Section 501.160;
- 16 (20) Section 501.161;
- 17 (21) Section 501.162;
- 18 (22) Subchapter E, Chapter 501;
- 19 (23) Sections 501.252(b), (c), and (d);
- 20 (24) Section 501.254;
- 21 (25) Sections 501.256(e), (f), and (g);
- 22 (26) Section 501.2561;
- 23 (27) Section 501.257;
- 24 (28) Section 501.258;
- 25 (29) Section 501.261(b);
- 26 (30) Section 501.302;
- 27 (31) Section 501.303;

- 1 (32) Section 501.304;
- 2 (33) Section 501.402;
- 3 (34) Section 501.403;
- 4 (35) Section 501.404;
- 5 (36) Section 501.405;
- 6 (37) Section 501.406;
- 7 (38) Section 501.409;
- 8 (39) Section 501.410;
- 9 (40) Subchapter J, Chapter 501;
- 10 (41) Section 501.501;
- 11 (42) Section 501.502;
- 12 (43) Section 501.504;
- 13 (44) Section 502.002(3);
- 14 (45) Section 502.003;
- 15 (46) Subchapter C, Chapter 502;
- 16 (47) Section 502.152;
- 17 (48) Section 502.153;
- 18 (49) Section 502.154;
- 19 (50) Section 502.156;
- 20 (51) Section 502.1565;
- 21 (52) Section 502.158;
- 22 (53) Section 502.161;
- 23 (54) Section 502.162;
- 24 (55) Section 502.163;
- 25 (56) Subchapter E, Chapter 502;
- 26 (57) Section 502.255;
- 27 (58) Section 502.256;

- 1 (59) Sections 502.301(b), (c), (d), and (e);
- 2 (60) Section 502.302;
- 3 (61) Section 502.303;
- 4 (62) Section 502.352;
- 5 (63) Section 502.353;
- 6 (64) Section 502.354;
- 7 (65) Section 502.355;
- 8 (66) Section 502.356;
- 9 (67) Subchapter I, Chapter 502;
- 10 (68) Section 502.451;
- 11 (69) Section 502.452;
- 12 (70) Section 502.453;
- 13 (71) Section 502.455;
- 14 (72) Section 503.005;
- 15 (73) Subchapter D, Chapter 503;
- 16 (74) Section 503.202;
- 17 (75) Section 503.203;
- 18 (76) Section 503.204;
- 19 (77) Section 503.2045;
- 20 (78) Section 503.205;
- 21 (79) Section 503.209;
- 22 (80) Section 503.210;
- 23 (81) Section 503.211;
- 24 (82) Subchapter F, Chapter 503;
- 25 (83) Section 503.306;
- 26 (84) Section 503.307;
- 27 (85) Section 503.354;

- 1 (86) Section 503.355;
- 2 (87) Section 503.356;
- 3 (88) Sections 503.401(b), (c), and (d);
- 4 (89) Section 503.402;
- 5 (90) Section 503.403;
- 6 (91) Section 503.404;
- 7 (92) Section 503.405;
- 8 (93) Section 503.406;
- 9 (94) Section 503.451;
- 10 (95) Section 503.454;
- 11 (96) Subchapter K, Chapter 503;
- 12 (97) Sections 504.001(5) and (7);
- 13 (98) Section 504.0515;
- 14 (99) Section 504.053;
- 15 (100) Section 504.054;
- 16 (101) Section 504.056;
- 17 (102) Subchapter C, Chapter 504;
- 18 (103) Section 504.157;
- 19 (104) Section 504.161;
- 20 (105) Section 504.203;
- 21 (106) Section 504.204;
- 22 (107) Section 504.205(a);
- 23 (108) Section 504.252;
- 24 (109) Sections 504.2525(b) and (c);
- 25 (110) Section 504.253;
- 26 (111) Section 504.254;
- 27 (112) Subchapter G, Chapter 504;

- 1 (113) Subchapter H, Chapter 504;
- 2 (114) Section 505.005;
- 3 (115) Section 505.110;
- 4 (116) Subchapter C, Chapter 505;
- 5 (117) Section 505.202;
- 6 (118) Section 505.203;
- 7 (119) Section 505.204;
- 8 (120) Section 505.209;
- 9 (121) Section 505.210;
- 10 (122) Section 505.211;
- 11 (123) Subchapter E, Chapter 505;
- 12 (124) Section 505.355;
- 13 (125) Section 505.356;
- 14 (126) Section 505.402;
- 15 (127) Section 505.403;
- 16 (128) Section 505.404;
- 17 (129) Section 505.452;
- 18 (130) Section 505.453;
- 19 (131) Section 505.454(b);
- 20 (132) Section 505.455;
- 21 (133) Section 505.456;
- 22 (134) Section 505.457;
- 23 (135) Section 505.501;
- 24 (136) Section 505.503;
- 25 (137) Section 505.504;
- 26 (138) Section 505.508; and
- 27 (139) Subchapter K, Chapter 505.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.001. Article 42A.111(d), Code of Criminal Procedure, is amended to read as follows:

(d) For any defendant who receives a dismissal and discharge under this article:

(1) on conviction of a subsequent offense, the fact that the defendant previously has received deferred adjudication community supervision is admissible before the court or jury for consideration on the issue of penalty;

(2) if the defendant is an applicant for or the holder of a license under Chapter 42, Human Resources Code, the Department of Family and Protective Services may consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license under that chapter; and

(3) if the defendant is an applicant for or the holder of a license to provide mental health or medical services for the rehabilitation of sex offenders, the Texas Behavioral Health Executive Council [~~on Sex Offender Treatment~~] may consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license issued by the executive [~~that~~] council.

SECTION 3.002. Article 60.061(a), Code of Criminal Procedure, is amended to read as follows:

(a) The Texas [~~State Board of~~] Medical Board [~~Examiners~~], the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the Texas State Board of Pharmacy, the



1 Texas Behavioral Health Executive Council, only with respect to a  
 2 person licensed under Chapter 501, Occupations Code [~~State Board of~~  
 3 ~~Examiners of Psychologists~~], and the State Board of Veterinary  
 4 Medical Examiners shall provide to the Department of Public Safety  
 5 through electronic means, magnetic tape, or disk, as specified by  
 6 the department, a list including the name, date of birth, and any  
 7 other personal descriptive information required by the department  
 8 for each person licensed by the respective agency. Each agency  
 9 shall update this information and submit to the Department of  
 10 Public Safety the updated information quarterly.

11 SECTION 3.003. Article 62.007(a), Code of Criminal  
 12 Procedure, is amended to read as follows:

13 (a) The Texas Department of Criminal Justice shall  
 14 establish a risk assessment review committee composed of at least  
 15 seven members, each of whom serves on the review committee in  
 16 addition to the member's other employment-related duties. The  
 17 review committee, to the extent feasible, must include at least:

18 (1) one member having experience in law enforcement;

19 (2) one member having experience working with juvenile  
 20 sex offenders;

21 (3) one member having experience as a sex offender  
 22 treatment provider;

23 (4) one member having experience working with victims  
 24 of sex offenses;

25 (5) one member [~~the executive director~~] of the Council  
 26 on Sex Offender Treatment; and

27 (6) one sex offender treatment provider registered

1 under Chapter 110, Occupations Code, and selected by [~~the executive~~  
2 ~~director of~~] the Council on Sex Offender Treatment to serve on the  
3 review committee.

4 SECTION 3.004. Article 62.352(b), Code of Criminal  
5 Procedure, is amended to read as follows:

6 (b) After a hearing under Article 62.351 or under a plea  
7 agreement described by Article 62.355(b), the juvenile court may  
8 enter an order:

9 (1) deferring decision on requiring registration  
10 under this chapter until the respondent has completed treatment for  
11 the respondent's sexual offense as a condition of probation or  
12 while committed to the Texas Juvenile Justice Department; or

13 (2) requiring the respondent to register as a sex  
14 offender but providing that the registration information is not  
15 public information and is restricted to use by law enforcement and  
16 criminal justice agencies, the Council on Sex Offender Treatment,  
17 the Texas Behavioral Health Executive Council, and public or  
18 private institutions of higher education.

19 SECTION 3.005. Section 411.110(a), Government Code, is  
20 amended to read as follows:

21 (a) The Department of State Health Services is entitled to  
22 obtain from the department criminal history record information  
23 maintained by the department that relates to:

24 (1) a person who is:  
25 (A) an applicant for a license or certificate  
26 under the Emergency Health Care Act (Chapter 773, Health and Safety  
27 Code);

1 (B) an owner or manager of an applicant for an  
2 emergency medical services provider license under that Act; or

3 (C) the holder of a license or certificate under  
4 that Act;

5 (2) an applicant for a license or a license holder  
6 under Subchapter N, Chapter 431, Health and Safety Code;

7 (3) an applicant for a license, the owner or manager of  
8 an applicant for a massage establishment license, or a license  
9 holder under Chapter 455, Occupations Code;

10 (4) an applicant for employment at or current employee  
11 of:

12 (A) a public health hospital as defined by  
13 Section 13.033, Health and Safety Code; or

14 (B) the South Texas Health Care System;

15 (5) an applicant for employment at, current employee  
16 of, or person who contracts or may contract to provide goods or  
17 services with a ~~[the Council on Sex Offender Treatment or other]~~  
18 division or component of the Department of State Health Services  
19 that monitors sexually violent predators as described by Section  
20 841.003(a), Health and Safety Code; or

21 (6) a person authorized to access vital records or the  
22 vital records electronic registration system under Chapter 191,  
23 Health and Safety Code, including an employee of or contractor for  
24 the Department of State Health Services, a local registrar, a  
25 medical professional, or a funeral director.

26 SECTION 3.006. Section 411.122(d), Government Code, is  
27 amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department ~~[, including:~~

~~[(A) Texas State Board of Examiners of Dietitians,~~

~~[(B) Texas State Board of Examiners of Marriage and Family Therapists,~~

~~[(C) Midwifery Board,~~

~~[(D) Texas State Perfusionist Advisory Committee,~~

~~[(E) Texas State Board of Examiners of Professional Counselors,~~

~~[(F) Texas State Board of Social Worker Examiners,~~

~~[(G) State Board of Examiners for Speech-Language Pathology and Audiology,~~

~~[(H) Advisory Board of Athletic Trainers,~~

~~[(I) State Committee of Examiners in the Fitting  
and Dispensing of Hearing Instruments;~~

~~[(J) Texas Board of Licensure for Professional  
Medical Physicists; and~~

~~[(K) Texas Board of Orthotics and Prosthetics];~~

(9) Texas Board of Professional Land Surveying;

(10) Texas Department of Licensing and Regulation,  
except as provided by Section [411.093](#);

(11) Texas Commission on Environmental Quality;

(12) Texas Board of Occupational Therapy Examiners;

(13) Texas Optometry Board;

(14) Texas State Board of Pharmacy;

(15) Texas Board of Physical Therapy Examiners;

(16) Texas State Board of Plumbing Examiners;

(17) Texas State Board of Podiatric Medical Examiners;

(18) Texas Behavioral Health Executive Council ~~[State  
Board of Examiners of Psychologists];~~

(19) Texas Real Estate Commission;

(20) Texas Department of Transportation;

(21) State Board of Veterinary Medical Examiners;

(22) Texas Department of Housing and Community  
Affairs;

(23) secretary of state;

(24) state fire marshal;

(25) Texas Education Agency;

(26) Department of Agriculture; and

(27) Texas Department of Motor Vehicles.

SECTION 3.007. Section 2054.2606(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall establish a profile system consisting of the specific license holder information prescribed by Subsection (c):

(1) Texas Board of Chiropractic Examiners, with respect to chiropractors;

(2) Texas State Board of Podiatric Medical Examiners, with respect to podiatrists;

(3) State Board of Dental Examiners, with respect to dentists;

(4) Texas Optometry Board, with respect to optometrists and therapeutic optometrists;

(5) Texas Board of Physical Therapy Examiners, with respect to physical therapists and physical therapy facilities;

(6) Texas Board of Occupational Therapy Examiners, with respect to occupational therapists and occupational therapy facilities;

(7) Texas Behavioral Health Executive Council [~~State Board of Examiners of Psychologists~~], with respect to psychologists; and

(8) Texas State Board of Pharmacy, with respect to pharmacists and pharmacies.

SECTION 3.008. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

- 1 (1) Texas Board of Chiropractic Examiners;
- 2 (2) Judicial Branch Certification Commission;
- 3 (3) State Board of Dental Examiners;
- 4 (4) Texas Funeral Service Commission;
- 5 (5) Texas Board of Professional Land Surveying;
- 6 (6) Texas Medical Board;
- 7 (7) Texas Board of Nursing;
- 8 (8) Texas Optometry Board;
- 9 (9) Department of Agriculture, for licenses issued
- 10 under Chapter [1951](#), Occupations Code;
- 11 (10) Texas State Board of Pharmacy;
- 12 (11) Executive Council of Physical Therapy and
- 13 Occupational Therapy Examiners;
- 14 (12) Texas State Board of Plumbing Examiners;
- 15 (13) Texas State Board of Podiatric Medical Examiners;
- 16 (14) Texas Behavioral Health Executive Council [~~State~~
- 17 ~~Board of Examiners of Psychologists~~];
- 18 (15) State Board of Veterinary Medical Examiners;
- 19 (16) Texas Real Estate Commission;
- 20 (17) Texas Appraiser Licensing and Certification
- 21 Board;
- 22 (18) Texas Department of Licensing and Regulation;
- 23 (19) Texas State Board of Public Accountancy;
- 24 (20) State Board for Educator Certification;
- 25 (21) Texas Board of Professional Engineers;
- 26 (22) Department of State Health Services;
- 27 (23) Texas Board of Architectural Examiners;

(24) Texas Racing Commission;

(25) Texas Commission on Law Enforcement; and

(26) Texas Private Security Board.

SECTION 3.009. Section 841.022(a), Health and Safety Code, is amended to read as follows:

(a) The executive director of the Texas Department of Criminal Justice shall establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. The team must include:

(1) a mental health professional from the Department of State Health Services;

(2) two persons from the Texas Department of Criminal Justice as follows:

(A) one person from the victim services division; and

(B) one person from the sex offender rehabilitation program in the rehabilitation programs division;

(3) a licensed peace officer who is employed by the Department of Public Safety and who has at least five years' experience working for that department or the officer's designee;

(4) two persons from the office; and

(5) a ~~[licensed]~~ sex offender treatment provider licensed under Chapter 110, Occupations Code ~~[from the Council on Sex Offender Treatment]~~.

SECTION 3.010. Section 36.132(a)(2), Human Resources Code, is amended to read as follows:

(2) "Licensing authority" means:



- (A) the Texas Medical Board;
- (B) the State Board of Dental Examiners;
- (C) the Texas Behavioral Health Executive Council [~~State Board of Examiners of Psychologists~~];
- (D) [~~the Texas State Board of Social Worker Examiners,~~
- [~~(E)~~] the Texas Board of Nursing;
- (E) [~~(F)~~] the Texas Board of Physical Therapy Examiners;
- (F) [~~(G)~~] the Texas Board of Occupational Therapy Examiners; or
- (G) [~~(H)~~] another state agency authorized to regulate a provider who receives or is eligible to receive payment for a health care service under the Medicaid program.

SECTION 3.011. Sections [1451.001](#)(4), (9), (10), (11), (18), and (19), Insurance Code, are amended to read as follows:

(4) "Chemical dependency counselor" means an individual licensed under Chapter [504](#), Occupations Code [~~by the Texas Commission on Alcohol and Drug Abuse~~].

(9) "Licensed clinical social worker" means an individual licensed [~~by the Texas State Board of Social Worker Examiners~~] as a [~~licensed~~] clinical social worker under Chapter [505](#), Occupations Code.

(10) "Licensed professional counselor" means an individual licensed under Chapter [503](#), Occupations Code [~~by the Texas State Board of Examiners of Professional Counselors~~].

(11) "Marriage and family therapist" means an

individual licensed under Chapter 502, Occupations Code ~~[by the Texas State Board of Examiners of Marriage and Family Therapists]~~.

(18) "Psychological associate" means an individual licensed as a psychological associate by the Texas Behavioral Health Executive Council ~~[State Board of Examiners of Psychologists who practices solely under the supervision of a licensed psychologist]~~.

(19) "Psychologist" means an individual licensed as a psychologist by the Texas Behavioral Health Executive Council ~~[State Board of Examiners of Psychologists]~~.

SECTION 3.012. Section 101.002, Occupations Code, is amended to read as follows:

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 14 members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas Medical Board;
- (8) the Texas Board of Nursing;
- (9) the Texas Behavioral Health Executive Council ~~[State Board of Examiners of Psychologists]~~;
- (10) the Texas Funeral Service Commission;
- (11) the entity that regulates the practice of

1 physical therapy;

2 (12) the entity that regulates the practice of  
3 occupational therapy; and

4 (13) ~~[the health licensing division of the Department~~  
5 ~~of State Health Services; and~~

6 ~~[(14)]~~ the governor's office.

7 ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

8 SECTION 4.001. In this article:

9 (1) "Executive council" means the Texas Behavioral  
10 Health Executive Council.

11 (2) "Transferring entity" means the following  
12 entities that regulate a profession being transferred to the  
13 executive council under this Act:

14 (A) the Council on Sex Offender Treatment;

15 (B) the Texas State Board of Examiners of  
16 Psychologists;

17 (C) the Texas State Board of Examiners of  
18 Marriage and Family Therapists;

19 (D) the Texas State Board of Examiners of  
20 Professional Counselors;

21 (E) the Department of State Health Services; and

22 (F) the Texas State Board of Social Worker  
23 Examiners.

24 SECTION 4.002. (a) Except as provided by Subsection (b) of  
25 this section, Sections 110.059, 501.059, 502.059, 503.110, and  
26 505.109, Occupations Code, as amended by this Act, apply to a member  
27 of the applicable council or board appointed before, on, or after

the effective date of this Act.

(b) A member of a council or board who, before the effective date of this Act, completed the training program required by Section 110.059, 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the applicable law existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training program required by Section 110.059, 501.059, 502.059, 503.110, or 505.109, Occupations Code, as applicable. A council or board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the council or board held on or after December 1, 2017, until the member completes the additional training.

SECTION 4.003. (a) Section 501.2525, Occupations Code, as redesignated and amended by this Act, applies only to an application for a license under Chapter 501, Occupations Code, that is submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) Section 502.252, Occupations Code, as amended by this Act, applies only to an application for a license under Chapter 502, Occupations Code, submitted on or after the date on which rules adopted by the Texas Behavioral Health Executive Council under that section take effect. An application submitted before that date is governed by the law in effect immediately before the effective date

1 of this Act, and the former law is continued in effect for that  
2 purpose.

3 SECTION 4.004. (a) Not later than December 1, 2017, the  
4 appropriate appointing authorities shall appoint the members of the  
5 executive council as provided by Section 506.051, Occupations Code,  
6 as added by this Act.

7 (b) Notwithstanding the terms established by Section  
8 506.054, Occupations Code, as added by this Act, in making the  
9 initial appointments to the executive council, the Texas State  
10 Board of Examiners of Psychologists, the Texas State Board of  
11 Examiners of Marriage and Family Therapists, the Texas State Board  
12 of Examiners of Professional Counselors, and the Texas State Board  
13 of Social Worker Examiners shall each appoint one member to a term  
14 expiring February 1, 2019, and one member to a term expiring  
15 February 1, 2020.

16 SECTION 4.005. (a) The Texas Behavioral Health Incubation  
17 Task Force is established to assist in the establishment of and  
18 transfer of regulatory programs to the executive council under this  
19 Act by providing guidance to:

20 (1) the executive council regarding:

21 (A) hiring the executive director of the  
22 executive council;

23 (B) developing functional alignments within the  
24 organizational structure of the executive council;

25 (C) establishing any necessary accounts and  
26 reporting requirements; and

27 (D) seeking input from interested parties

1 throughout the transfer; and

2 (2) the transferring entities and the executive  
3 council regarding:

4 (A) the efficient transfer of necessary data; and

5 (B) the revision of existing rules to align with  
6 the administrative structure of the executive council.

7 (b) The task force is composed of:

8 (1) the commissioner of state health services, or the  
9 commissioner's designee;

10 (2) the executive director of the Texas Department of  
11 Licensing and Regulation, or the director's designee; and

12 (3) the executive director of the Texas State Board of  
13 Examiners of Psychologists.

14 (c) The entities represented on the task force may adopt a  
15 memorandum of understanding to accomplish the responsibilities and  
16 duties of the task force and to ensure access by the entities of any  
17 systems and information necessary to effectively transfer the  
18 regulatory programs to the executive council under this Act.

19 SECTION 4.006. (a) Not later than April 1, 2018, the  
20 executive council shall hire an executive director for the  
21 executive council.

22 (b) Not later than July 31, 2018, the executive council  
23 shall adopt procedural rules necessary to implement Chapter 506,  
24 Occupations Code, as added by this Act.

25 SECTION 4.007. (a) As soon as practicable after the  
26 appointment of the members of the executive council, the executive  
27 council and the transferring entities shall adopt a transition plan

1 to provide for the orderly transfer of powers, duties, functions,  
2 programs, and activities under this Act. The transition plan must  
3 provide for the transfer of each regulatory program to be  
4 completed on or before August 31, 2018.

5 (b) The transferring entities shall provide the executive  
6 council with access to any systems or information necessary for the  
7 executive council to accept a program transferred under this Act.

8 (c) On the date specified in the transition plan required  
9 under Subsection (a) of this section for the transfer of a  
10 particular program to the executive council, all full-time  
11 equivalent employee positions at a transferring entity that  
12 primarily concern the administration or enforcement of the program  
13 being transferred become positions at the executive council. The  
14 executive council shall post the positions for hiring and, when  
15 filling the positions, shall give consideration to, but is not  
16 required to hire, an applicant who, immediately before the date of  
17 the transfer, was an employee at a transferring entity primarily  
18 involved in administering or enforcing the transferred program.

19 SECTION 4.008. On the date specified in the transition plan  
20 required under Section 4.007(a) of this Act for the transfer of a  
21 particular program to the executive council:

22 (1) a rule or fee relating to a transferred program  
23 that is in effect on that date remains in effect until changed by  
24 the executive council;

25 (2) a license, registration, certification, or other  
26 authorization relating to a transferred program that is in effect  
27 on that date is continued in effect as a license, registration, or

1 certification, or other authorization of the executive council; and  
2 (3) a complaint, investigation, contested case, or  
3 other proceeding relating to a transferred program that is pending  
4 before a transferring entity on that date is transferred without  
5 change in status to the executive council.

6 SECTION 4.009. To the extent of any conflict, this Act  
7 prevails over another Act of the 85th Legislature, Regular Session,  
8 2017, relating to nonsubstantive additions to and corrections in  
9 enacted codes.

10 SECTION 4.010. This Act takes effect September 1, 2017.