

By: Nelson

S.B. No. 1022

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the licensing and regulation of certain counseling professions to the Texas Department of Licensing and Regulation.

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

SECTION 1. Section 502.002, Occupations Code, is amended by amending Subdivisions (2), (3), and (5) and adding Subdivision (3-a) to read as follows:

(2) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

(3) "Department" means the Texas Department of Licensing and Regulation [~~Department of State Health Services~~].

(3-a) "Executive director" means the executive director of the department.

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

SECTION 2. The heading to Subchapter D, Chapter 502, Occupations Code, is amended to read as follows:

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

SECTION 3. Section 502.151, Occupations Code, is amended to read as follows:

1 Sec. 502.151. GENERAL POWERS AND DUTIES [~~OF BOARD~~]. (a)
2 The executive director shall administer and enforce this chapter.

3 (b) The commission [~~board~~] shall:

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

6 (2) adopt a code of professional ethics for license
7 holders.

8 SECTION 4. Section 502.157, Occupations Code, is amended to
9 read as follows:

10 Sec. 502.157. ANNUAL REGISTRY. (a) The department [~~board~~]
11 shall annually prepare a registry of all license holders.

12 (b) The department [~~board~~] shall make the registry
13 available to the public, license holders, and other state agencies.

14 SECTION 5. Section 502.159, Occupations Code, is amended to
15 read as follows:

16 Sec. 502.159. EX PARTE COMMUNICATION PROHIBITED. A
17 commission [~~board~~] member or department employee [~~who performs~~
18 ~~functions for the board and~~] who is assigned to make a decision, a
19 finding of fact, or a conclusion of law in a proceeding pending
20 before the commission [~~board~~] may not directly or indirectly
21 communicate with a party to the proceeding or the party's
22 representative unless notice and an opportunity to participate are
23 given to each party to the proceeding.

24 SECTION 6. Section 502.252, Occupations Code, is amended to
25 read as follows:

26 Sec. 502.252. LICENSE APPLICATION. (a) An applicant for a
27 license must:

1 (1) file a written application in the manner and [~~with~~
2 ~~the board~~] on a form prescribed by the executive director [~~board~~];
3 and

4 (2) pay the appropriate application fee.

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

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

8 (2) have completed a graduate internship in marriage
9 and family therapy, or an equivalent internship, as approved by the
10 commission [~~board~~];

11 (3) pass the license examination and jurisprudence
12 examination determined by the commission [~~board~~];

13 (4) hold a master's or doctoral degree in marriage and
14 family therapy or in a related mental health field with coursework
15 and training determined by the commission [~~board~~] to be
16 substantially equivalent to a graduate degree in marriage and
17 family therapy from a regionally accredited institution of higher
18 education or an institution of higher education approved by the
19 commission [~~board~~];

20 (5) be of good moral character;

21 (6) have not been convicted of a felony or a crime
22 involving moral turpitude;

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

25 (8) not have had a license or certification revoked by
26 a licensing agency or by a certifying professional organization;
27 and

1 (9) not have engaged in fraud or deceit in applying for
2 a license under this chapter.

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

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

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

10 (A) at least 1,500 hours consist of direct
11 clinical services; and

12 (B) at least 750 hours consist of direct clinical
13 services to couples or families; and

14 (3) has completed, in a manner acceptable to the
15 commission [~~board~~], at least 200 hours of supervised provision of
16 direct clinical services by the applicant, 100 hours of which must
17 be supervised on an individual basis.

18 SECTION 7. Sections 502.253(a), (b), and (c), Occupations
19 Code, are amended to read as follows:

20 (a) The department [~~board~~] shall investigate each
21 application and any other information submitted by the applicant.

22 (b) Not later than the 90th day after the date the
23 department [~~board~~] receives the completed application from a person
24 seeking a license as a licensed marriage and family therapist
25 associate, the department [~~board~~] shall notify the applicant
26 whether the application has been accepted or rejected.

27 (c) An applicant for a license as a licensed marriage and

1 family therapist associate is eligible to take the examination if
2 the applicant:

3 (1) is enrolled in a graduate internship described by
4 Section 502.252(b)(2) and provides proof to the department [~~board~~]
5 that the applicant is a student in good standing in an educational
6 program described by Section 502.252(b)(4); or

7 (2) has completed the internship described by
8 Subdivision (1).

9 SECTION 8. Sections 502.254(b) and (d), Occupations Code,
10 are amended to read as follows:

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

13 (1) file an application in the manner and on a form
14 prescribed by the executive director [~~board~~] not later than the
15 90th day before the date of the examination; and

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

18 (d) The department [~~board~~] shall have any written portion of
19 an examination validated by an independent testing professional.

20 SECTION 9. Section 502.2541, Occupations Code, is amended
21 to read as follows:

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

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

6 SECTION 10. Section 502.2545, Occupations Code, is amended
7 to read as follows:

8 Sec. 502.2545. WAIVER OF EXAMINATION FOR CERTAIN
9 APPLICANTS. (a) The department [~~board~~] may waive the requirement
10 that an applicant for a license as a licensed marriage and family
11 therapist pass the examination required by Section 502.254 if the
12 applicant:

13 (1) is a provisional license holder under Section
14 502.259 and the department [~~board~~] determines that the applicant
15 possesses sufficient education and professional experience to
16 receive a license without further examination; or

17 (2) holds a license issued by another licensing agency
18 in a profession related to the practice of marriage and family
19 therapy and the department [~~board~~] determines that the applicant
20 possesses sufficient education and professional experience to
21 receive a license without satisfying the examination requirements
22 of this chapter.

23 (b) The commission [~~board~~] may adopt rules necessary to
24 administer this section, including rules under Subsection (a)(2)
25 prescribing the professions that are related to the practice of
26 marriage and family therapy.

27 SECTION 11. Section 502.256(b), Occupations Code, is

1 amended to read as follows:

2 (b) If an applicant fails the examination two or more times,
3 the department [~~board~~] may require the applicant to:

4 (1) complete additional courses of study designated by
5 the department [~~board~~]; and

6 (2) present satisfactory evidence of completion of the
7 required courses.

8 SECTION 12. Section 502.257, Occupations Code, is amended
9 to read as follows:

10 Sec. 502.257. ISSUANCE OF LICENSE. The department [~~board~~]
11 shall issue a license as a licensed marriage and family therapist
12 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 department [~~board~~] exempts the person from the examination
17 requirement; and

18 (3) pays the required fees.

19 SECTION 13. Section 502.259, Occupations Code, is amended
20 to read as follows:

21 Sec. 502.259. PROVISIONAL LICENSE. (a) The department
22 [~~board~~] may grant a provisional license to practice as a marriage
23 and family therapist in this state without examination to an
24 applicant who is licensed or otherwise registered as a marriage and
25 family therapist by another state or jurisdiction if the
26 requirements to be licensed or registered in the other state or
27 jurisdiction were, on the date the person was licensed or

1 registered, substantially equal to the requirements of this
2 chapter.

3 (b) An applicant for a provisional license must:

4 (1) be licensed in good standing as a marriage and
5 family therapist in another state or jurisdiction that has
6 licensing requirements that are substantially equal to the
7 requirements of this chapter;

8 (2) have passed a national or other examination that:

9 (A) is recognized by the commission [~~board~~]; and

10 (B) relates to marriage and family therapy; and

11 (3) be sponsored by a person licensed under this
12 chapter [~~by the board~~] with whom the provisional license holder may
13 practice under this section.

14 (c) An applicant may be excused from the requirement of
15 Subsection (b)(3) if the department [~~board~~] determines that
16 compliance with that subsection constitutes a hardship to the
17 applicant.

18 (d) A provisional license is valid until the date the
19 department [~~board~~] approves or denies the provisional license
20 holder's application for a license under Section 502.257. The
21 department [~~board~~] shall complete processing of a provisional
22 license holder's application for a license not later than the 180th
23 day after the date the provisional license is issued. The
24 department [~~board~~] may extend this period to allow for the receipt
25 and tabulation of pending examination results.

26 (e) The department [~~board~~] shall issue a license under
27 Section 502.257 to a provisional license holder if:

1 (1) the provisional license holder passes the
2 examination required by Section 502.254;

3 (2) the department [~~board~~] verifies that the
4 provisional license holder satisfies the academic and experience
5 requirements of this chapter; and

6 (3) the provisional license holder satisfies any other
7 license requirements under this chapter.

8 SECTION 14. Section 502.261(b), Occupations Code, is
9 amended to read as follows:

10 (b) Each license holder shall notify the department [~~board~~]
11 of the license holder's current address.

12 SECTION 15. Section 502.301(a), Occupations Code, is
13 amended to read as follows:

14 (a) A license issued under this chapter is subject to
15 biennial renewal. [~~The board shall adopt a system under which
16 licenses expire on various dates during the year.~~]

17 SECTION 16. Section 502.351, Occupations Code, is amended
18 to read as follows:

19 Sec. 502.351. GROUNDS FOR DISCIPLINARY ACTIONS. The
20 commission or executive director [~~board~~] shall reprimand a license
21 holder, place on probation a person whose license has been
22 suspended, refuse to renew a person's license, or suspend or revoke
23 a holder's license if the person:

24 (1) is convicted of a misdemeanor involving moral
25 turpitude or a felony;

26 (2) obtains or attempts to obtain a license by fraud or
27 deception;

1 (3) uses drugs or alcohol to an extent that affects the
2 license holder's professional competence;

3 (4) performs professional duties in a grossly
4 negligent manner;

5 (5) is adjudicated as mentally incompetent by a court;

6 (6) practices in a manner that is detrimental to the
7 public health or welfare;

8 (7) advertises in a manner that tends to deceive or
9 defraud the public;

10 (8) has a license or certification revoked by a
11 licensing agency or a certifying professional organization;

12 (9) violates this chapter or a rule or code of ethics
13 adopted under this chapter; or

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

16 SECTION 17. Section 502.357, Occupations Code, is amended
17 to read as follows:

18 Sec. 502.357. GROUNDS FOR REFUSING RENEWAL. The department
19 [~~board~~] may refuse to renew the license of a person who fails to pay
20 an administrative penalty imposed under Subchapter F, Chapter 51,
21 [~~I~~] unless enforcement of the penalty is stayed or a court has
22 ordered that the administrative penalty is not owed.

23 SECTION 18. Section 502.358, Occupations Code, is amended
24 to read as follows:

25 Sec. 502.358. REFUND. (a) Subject to Subsection (b), the
26 commission or executive director [~~board~~] may order a license holder
27 to pay a refund to a consumer as provided in an agreement resulting

1 from an informal settlement conference instead of or in addition to
2 imposing an administrative penalty under this chapter.

3 (b) The amount of a refund ordered as provided in an
4 agreement resulting from an informal settlement conference may not
5 exceed the amount the consumer paid to the license holder for a
6 service regulated by this chapter. The commission or executive
7 director [~~board~~] may not require payment of other damages or
8 estimate harm in a refund order.

9 SECTION 19. Section 502.453, Occupations Code, is amended
10 to read as follows:

11 Sec. 502.453. CIVIL PENALTY. (a) A person who violates
12 this chapter or a rule or order adopted [~~by the board~~] under this
13 chapter is liable for a civil penalty not to exceed \$1,000 a day.

14 (b) At the request of the commission [~~board~~] or executive
15 director [~~department~~], the attorney general shall bring an action
16 to recover a civil penalty authorized under this section.

17 SECTION 20. Section 503.002, Occupations Code, is amended
18 by amending Subdivisions (1) and (2) and adding Subdivision (2-a)
19 to read as follows:

20 (1) "Commission" [~~"Board"~~] means the Texas Commission
21 of Licensing and Regulation [~~State Board of Examiners of~~
22 ~~Professional Counselors~~].

23 (2) "Department" means the Texas Department of
24 Licensing and Regulation [~~State Health Services~~].

25 (2-a) "Executive director" means the executive
26 director of the department.

27 SECTION 21. The heading to Subchapter E, Chapter 503,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER E. [~~BOARD~~] POWERS AND DUTIES

3 SECTION 22. Section 503.201, Occupations Code, is amended
4 to read as follows:

5 Sec. 503.201. GENERAL POWERS AND DUTIES. (a) The executive
6 director shall administer and enforce this chapter.

7 (b) The commission [~~board~~] shall:

8 (1) determine the qualifications and fitness of an
9 applicant for a license, license renewal, or provisional license;

10 (2) examine for, deny, approve, issue, revoke,
11 suspend, suspend on an emergency basis, place on probation, and
12 renew the license of an applicant or license holder under this
13 chapter;

14 (3) adopt and publish a code of ethics;

15 (4) by rule adopt a list of authorized counseling
16 methods or practices that a license holder may undertake or
17 perform; and

18 (5) adopt an official seal.

19 (c) [~~(b)~~] The commission or executive director [~~board~~] may
20 request and shall receive the assistance of a state educational
21 institution or other state agency.

22 SECTION 23. Section 503.207, Occupations Code, is amended
23 to read as follows:

24 Sec. 503.207. LICENSE HOLDER REGISTRY. (a) Each year the
25 department [~~board~~] shall prepare a registry of persons licensed
26 under this chapter. The registry must include listings of any
27 specializations permitted by law or by commission [~~board~~] rule.

1 The registry shall be made available on request to a license holder,
2 another state agency, or a member of the public.

3 (b) A person licensed under this chapter shall inform the
4 department [~~board~~] of the person's current address at all times.

5 SECTION 24. Section 503.208, Occupations Code, is amended
6 to read as follows:

7 Sec. 503.208. COMPETENT PERFORMANCE OF PROFESSIONAL
8 DUTIES. The commission [~~board~~] shall identify the key factors for
9 the competent performance by a license holder of the license
10 holder's professional duties.

11 SECTION 25. Section 503.302, Occupations Code, is amended
12 to read as follows:

13 Sec. 503.302. QUALIFICATIONS FOR LICENSE. (a) A person
14 qualifies for a license under this chapter if the person:

15 (1) is at least 18 years old;

16 (2) has a master's or doctoral degree in counseling or
17 a related field;

18 (3) has successfully completed a graduate degree at a
19 regionally accredited institution of higher education and the
20 number of graduate semester hours required by commission [~~board~~]
21 rule, which may not be less than 48 hours and must include 300 clock
22 hours of supervised practicum that:

23 (A) is primarily counseling in nature; and

24 (B) meets the specific academic course content
25 and training standards established by the commission [~~board~~];

26 (4) has completed the number of supervised experience
27 hours required by commission [~~board~~] rule, which may not be less

1 than 3,000 hours working in a counseling setting that meets the
2 requirements established by the commission [~~board~~] after the
3 completion of the graduate program described by Subdivision (3);

4 (5) [~~except as provided by Subsection (b),~~] passes the
5 license examination and jurisprudence examination required by this
6 chapter;

7 (6) submits an application in the manner and on a form
8 prescribed [~~as required~~] by the executive director [~~board~~],
9 accompanied by the required application fee; and

10 (7) meets any other requirement prescribed by the
11 commission [~~board~~].

12 (b) [~~(d)~~] In establishing the standards described by
13 Subsection (a)(3)(B), the commission [~~board~~] shall review and
14 consider the standards as developed by the appropriate professional
15 association.

16 (c) [~~(e)~~] The commission [~~board~~] may require the statements
17 on a license application to be made under oath.

18 SECTION 26. Section 503.303(b), Occupations Code, is
19 amended to read as follows:

20 (b) The department [~~board~~] shall accept an individual
21 course from an art therapy program accredited through the American
22 Art Therapy Association as satisfying the education requirements
23 under Section 503.302(a)(3) if at least 75 percent of the course
24 content is substantially equivalent to the content of a course
25 required by commission [~~board~~] rule.

26 SECTION 27. Section 503.304, Occupations Code, is amended
27 to read as follows:

1 Sec. 503.304. REVIEW OF APPLICATION. (a) Not later than
2 the 30th day before the examination date, after investigation of a
3 license application and review of other evidence submitted, the
4 department [~~board~~] shall notify the applicant that the application
5 and evidence submitted are:

6 (1) satisfactory and accepted; or

7 (2) unsatisfactory and rejected.

8 (b) If the department [~~board~~] rejects an application, the
9 department [~~board~~] shall state in the notice the reasons for the
10 rejection.

11 SECTION 28. Section 503.305, Occupations Code, is amended
12 to read as follows:

13 Sec. 503.305. LICENSE EXAMINATION. (a) The department
14 [~~board~~] shall administer examinations to determine the competence
15 of qualified applicants at least twice each calendar year.

16 (b) The department [~~board~~] shall contract with a nationally
17 recognized testing organization to develop and administer a written
18 professional counselor licensing examination to applicants who
19 apply for a license under this chapter.

20 SECTION 29. Section 503.3055, Occupations Code, is amended
21 to read as follows:

22 Sec. 503.3055. JURISPRUDENCE EXAMINATION. (a) The
23 department [~~board~~] shall develop and administer at least twice each
24 calendar year a jurisprudence examination to determine an
25 applicant's knowledge of this chapter, commission [~~board~~] rules,
26 and any other applicable laws of this state affecting the
27 applicant's professional counseling practice.

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

6 SECTION 30. Sections 503.310(a), (c), and (d), Occupations
7 Code, are amended to read as follows:

8 (a) On application and payment of applicable fees, the
9 department [~~board~~] may issue a provisional license to a person who
10 holds a license as a counselor or art therapist issued by another
11 state or by a jurisdiction acceptable to the commission [~~board~~].

12 (c) An applicant is not required to comply with Subsection
13 (b)(3) if the department [~~board~~] determines that compliance with
14 that subsection is a hardship to the applicant.

15 (d) A provisional license is valid until the date the
16 department [~~board~~] approves or denies the provisional license
17 holder's application for a license under Section 503.311.

18 SECTION 31. Section 503.311, Occupations Code, is amended
19 to read as follows:

20 Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
21 HOLDER. (a) The department [~~board~~] shall issue a license to the
22 holder of a provisional license who applies for a license if:

23 (1) the department [~~board~~] verifies that the applicant
24 has the academic and experience requirements for a regular license
25 under this chapter; and

26 (2) the applicant satisfies any other license
27 requirements under this chapter.

1 (b) The department [~~board~~] must complete the processing of a
2 provisional license holder's application for a license not later
3 than the later of:

4 (1) the 180th day after the date the provisional
5 license is issued; or

6 (2) the date licenses are issued following completion
7 of the examination.

8 SECTION 32. Section 503.313, Occupations Code, is amended
9 to read as follows:

10 Sec. 503.313. RETIREMENT STATUS. The commission [~~board~~] by
11 rule may adopt a system for placing a person licensed under this
12 chapter on retirement status.

13 SECTION 33. Section 503.314(b), Occupations Code, is
14 amended to read as follows:

15 (b) A license certificate issued under this chapter [~~by the~~
16 ~~board~~] is the property of the department [~~board~~] and must be
17 surrendered on demand.

18 SECTION 34. Section 503.351, Occupations Code, is amended
19 to read as follows:

20 Sec. 503.351. RENEWAL; ELIGIBILITY. A person licensed
21 under this chapter may renew the license biennially if the person:

22 (1) is not in violation of this chapter when the person
23 applies for renewal; and

24 (2) fulfills the continuing education requirements
25 [~~established by the board~~].

26 SECTION 35. Sections 503.401(a) and (b), Occupations Code,
27 are amended to read as follows:

1 (a) A person licensed under this chapter is subject to
2 disciplinary action under this section if the person:

3 (1) violates this chapter or a rule or code of ethics
4 adopted under this chapter [~~by the board~~];

5 (2) commits an act for which the license holder would
6 be liable under Chapter 81, Civil Practice and Remedies Code;

7 (3) is legally committed to an institution because of
8 mental incompetence from any cause; or

9 (4) directly or indirectly offers to pay or agrees to
10 accept remuneration to or from any person for securing or
11 soliciting a patient or patronage.

12 (b) If a person is subject to disciplinary action under this
13 section, the commission or executive director [~~board~~] shall:

14 (1) revoke or suspend the person's license, including
15 a suspension on an emergency basis;

16 (2) refuse to renew the person's license;

17 (3) suspend the person's license and place the person
18 on probation with the license suspension probated; or

19 (4) reprimand the person.

20 SECTION 36. Section 503.407, Occupations Code, is amended
21 to read as follows:

22 Sec. 503.407. REFUND. (a) Subject to Subsection (b), the
23 commission or executive director [~~board~~] may order a license holder
24 to pay a refund to a consumer as provided in an agreement resulting
25 from an informal settlement conference instead of or in addition to
26 imposing an administrative penalty under this chapter.

27 (b) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement conference may not
2 exceed the amount the consumer paid to the license holder for a
3 service regulated by this chapter. The commission or executive
4 director [~~board~~] may not require payment of other damages or
5 estimate harm in a refund order.

6 SECTION 37. Section 503.453, Occupations Code, is amended
7 to read as follows:

8 Sec. 503.453. REPORT OF ALLEGED OFFENSE. The department
9 [~~board~~] shall notify the appropriate prosecuting attorney of an
10 alleged offense committed under this chapter.

11 SECTION 38. Section 504.001, Occupations Code, is amended
12 by amending Subdivisions (5), (7), (8), and (9) to read as follows:

13 (5) "Commission" [~~"Commissioner"~~] means the Texas
14 Commission of Licensing and Regulation [~~commissioner of state~~
15 ~~health services~~].

16 (7) "Department" means the Texas Department of
17 Licensing and Regulation [~~State Health Services~~].

18 (8) "Executive director [~~commissioner~~]" means the
19 executive director [~~commissioner~~] of the department [~~Health and~~
20 ~~Human Services Commission~~].

21 (9) "Peer assistance program" means a program approved
22 by the commission [~~department~~] under Section 504.057.

23 SECTION 39. The heading to Subchapter B, Chapter 504,
24 Occupations Code, is amended to read as follows:

25 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~
26 ~~DEPARTMENT~~]

27 SECTION 40. Section 504.051, Occupations Code, is amended

1 to read as follows:

2 Sec. 504.051. GENERAL POWERS AND DUTIES [~~OF EXECUTIVE~~
3 ~~COMMISSIONER~~]. (a) The executive director [~~commissioner~~] shall
4 administer and enforce this chapter.

5 (b) The commission shall establish:

6 (1) [~~adopt rules as necessary for the performance of~~
7 ~~its duties under this chapter,~~

8 [~~(2) establish~~] standards of conduct and ethics for
9 persons licensed under this chapter; and

10 (2) [~~(3) establish~~] any additional criteria for peer
11 assistance programs for chemical dependency counselors that the
12 commission [~~executive commissioner~~] determines necessary.

13 SECTION 41. Section [504.052](#), Occupations Code, is amended
14 to read as follows:

15 Sec. 504.052. DISCRIMINATION PROHIBITED. In taking an
16 action or making a decision under this chapter, the commission,
17 executive director [~~commissioner, commissioner~~], and department
18 shall do so without regard to the sex, race, religion, national
19 origin, color, or political affiliation of the person
20 affected. For purposes of this section, taking an action or making
21 a decision under this chapter includes:

22 (1) considering a license application;

23 (2) conducting an examination;

24 (3) adopting or enforcing a rule; and

25 (4) conducting a disciplinary proceeding.

26 SECTION 42. Section [504.055](#)(d), Occupations Code, is
27 amended to read as follows:

1 (d) The department may charge a fee in an amount set by the
2 commission [~~executive commissioner~~] by rule for the roster
3 published under this section.

4 SECTION 43. Sections 504.057(a) and (b), Occupations Code,
5 are amended to read as follows:

6 (a) The commission [~~department~~] shall approve one or more
7 peer assistance programs established [~~by the department or a~~
8 ~~professional association~~] in accordance with Chapter 467, Health
9 and Safety Code, from which persons licensed under this chapter may
10 seek assistance.

11 (b) The commission [~~department~~] shall approve a peer
12 assistance program that:

13 (1) meets the minimum criteria established [~~by the~~
14 ~~executive commissioner or department~~] under Chapter 467, Health and
15 Safety Code;

16 (2) meets any additional criteria established by the
17 commission [~~executive commissioner or department~~] for chemical
18 dependency counselors licensed under this chapter; and

19 (3) is designed to assist a chemical dependency
20 counselor whose ability to perform a professional service is
21 impaired by abuse of or dependency on drugs or alcohol.

22 SECTION 44. Section 504.058(a), Occupations Code, is
23 amended to read as follows:

24 (a) The department [~~executive commissioner~~] shall add a
25 surcharge of not more than \$10 to the license or license renewal fee
26 for a license under this chapter to fund approved peer assistance
27 programs for chemical dependency counselors. Money collected from

1 the surcharge shall be remitted to the comptroller for deposit to
2 the credit of the chemical dependency counselor account. The
3 chemical dependency counselor account is an account in the general
4 revenue fund.

5 SECTION 45. Section 504.1515(a), Occupations Code, is
6 amended to read as follows:

7 (a) A person seeking a license as a chemical dependency
8 counselor shall register with the department as a counselor intern
9 by submitting, in the manner prescribed by [~~a form acceptable to~~]
10 the executive director [~~department~~], the following:

11 (1) an application fee and a background investigation
12 fee;

13 (2) a completed, signed, dated, and notarized
14 application on a form prescribed by the executive director
15 [~~department~~];

16 (3) a recent full-face wallet-sized photograph of the
17 applicant;

18 (4) two sets of fingerprints submitted [~~completed in~~
19 ~~accordance with department instructions~~] on a form prescribed
20 [~~cards issued~~] by the executive director [~~department~~];

21 (5) documentation verifying the applicant
22 successfully completed:

23 (A) 270 total hours of approved curricula
24 described by Section 504.152(a)(3)(A) [~~504.152(3)(A)~~]; and

25 (B) 300 hours of approved supervised field work
26 practicum described by Section 504.152(a)(3)(C) [~~504.152(3)(C)~~];

27 and

1 (6) documentation verifying the applicant received a
2 high school diploma or its equivalent.

3 SECTION 46. Section 504.152(a), Occupations Code, is
4 amended to read as follows:

5 (a) To be eligible for a license under this chapter, a
6 person must:

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

8 (2) hold an associate degree or a more advanced
9 degree;

10 (3) have completed:

11 (A) 135 hours, or nine semester hours, specific
12 to substance abuse disorders and treatment and an additional 135
13 hours, or nine semester hours, specific or related to chemical
14 dependency counseling;

15 (B) 4,000 hours of approved supervised
16 experience working with chemically dependent persons; and

17 (C) 300 hours of approved supervised field work
18 practicum;

19 (4) provide two letters of reference from chemical
20 dependency counselors;

21 (5) pass a written examination approved by the
22 department;

23 (6) submit a case presentation to the test
24 administrator;

25 (7) be determined by the department to be worthy of the
26 public trust and confidence;

27 (8) successfully complete the chemical dependency

1 counselor examination under Section 504.156;

2 (9) sign a written agreement to comply with the
3 standards of ethics approved by the commission [~~department~~]; and

4 (10) provide to the department written assurance that
5 the applicant has access to a peer assistance program.

6 SECTION 47. Section 504.1521(b), Occupations Code, is
7 amended to read as follows:

8 (b) The commission [~~executive commissioner~~] shall adopt
9 rules necessary to:

10 (1) register clinical training institutions that meet
11 the criteria established by the commission [~~executive
12 commissioner~~] to protect the safety and welfare of the people of
13 this state; and

14 (2) certify clinical supervisors who hold
15 certification credentials approved by the commission [~~department~~]
16 or by a person designated by the commission [~~department~~], such as
17 the International Certification and Reciprocity Consortium or
18 another person that meets the criteria established by the
19 commission [~~executive commissioner~~] to protect the safety and
20 welfare of the people of this state.

21 SECTION 48. Sections 504.1525(a) and (b), Occupations Code,
22 are amended to read as follows:

23 (a) Except as provided by Subsection (b), the department may
24 not issue a license, registration, or certification under this
25 chapter to an applicant who has been:

26 (1) convicted or placed on community supervision
27 during the three years preceding the date of application in any

1 jurisdiction for an offense equal to a Class B misdemeanor
2 specified by commission [~~department~~] rule;

3 (2) convicted or placed on community supervision in
4 any jurisdiction for an offense equal to or greater than a Class A
5 misdemeanor specified by commission [~~department~~] rule; or

6 (3) found to be incapacitated by a court on the basis
7 of a mental defect or disease.

8 (b) The department may issue a license, registration, or
9 certification to a person convicted or placed on community
10 supervision in any jurisdiction for a drug or alcohol offense
11 described by Subsection (a)(1) or (2) if the commission or
12 executive director [~~department~~] determines that the applicant has
13 successfully completed participation in an approved peer
14 assistance program.

15 SECTION 49. Sections 504.155(a), (b), and (c), Occupations
16 Code, are amended to read as follows:

17 (a) An application for a license under this chapter must:

18 (1) be submitted in the manner and on a form prescribed
19 [~~and furnished~~] by the executive director [~~department~~]; and

20 (2) contain a statement made under oath of the
21 applicant's education, experience, and other qualifications
22 established by the commission [~~department~~] as required for a
23 license under this chapter.

24 (b) The commission or executive director [~~department~~] may
25 require additional information regarding the quality, scope, and
26 nature of the experience and competence of the applicant if the
27 commission or executive director [~~department~~] determines that a

1 person's application lacks sufficient information for
2 consideration by the department.

3 (c) The department may obtain criminal history record
4 information relating to an applicant for a license under this
5 chapter from the Department of Public Safety and the Federal Bureau
6 of Investigation. The department may deny an application for a
7 license if the applicant fails to provide two complete sets of
8 fingerprints on a form prescribed by the executive director
9 [~~department~~].

10 SECTION 50. The heading to Section 504.157, Occupations
11 Code, is amended to read as follows:

12 Sec. 504.157. [~~EXAMINATION RESULTS,~~] REEXAMINATION.

13 SECTION 51. Section 504.157(d), Occupations Code, is
14 amended to read as follows:

15 (d) The commission [~~executive commissioner~~] by rule shall
16 establish the criteria under which an applicant may take a
17 subsequent examination under Subsection (c).

18 SECTION 52. Section 504.201(a), Occupations Code, is
19 amended to read as follows:

20 (a) A license issued under this chapter expires on the
21 second anniversary of the date of issuance. [~~The executive
22 commissioner by rule shall adopt a system under which licenses
23 expire on various dates during the year.~~]

24 SECTION 53. Section 504.2025(b), Occupations Code, is
25 amended to read as follows:

26 (b) The commission or executive director [~~department~~] may
27 renew a license under this chapter if the commission or executive

1 director [~~department~~] determines that the person has successfully
2 completed participation in an approved peer assistance program
3 subsequent to the conviction or placement on community supervision
4 for an offense described by Section 504.1525(b).

5 SECTION 54. Section 504.2026(b), Occupations Code, is
6 amended to read as follows:

7 (b) The commission or executive director [~~department~~] may
8 waive the requirement of Subsection (a) if the commission or
9 executive director [~~department~~] determines that a peer assistance
10 program is not reasonably available to the license holder.

11 SECTION 55. Section 504.205(d), Occupations Code, is
12 amended to read as follows:

13 (d) Except for the number of hours required, the commission
14 [~~executive commissioner~~] may not adopt a rule [~~under Subsection~~
15 ~~(a)~~] that distinguishes between the continuing education
16 requirements for a license holder subject to Subsection (b) and a
17 license holder subject to Subsection (c).

18 SECTION 56. Sections 504.206(b) and (d), Occupations Code,
19 are amended to read as follows:

20 (b) The commission [~~department~~] shall recognize, prepare,
21 or administer a training component that satisfies the requirement
22 of Subsection (a) for use in continuing education for chemical
23 dependency counselors.

24 (d) In developing the training component, the commission
25 [~~department~~] may, to the extent appropriate, consider the training
26 course relating to hepatitis C developed by the Department of State
27 Health Services [~~department~~] under Section 94.002, Health and

1 Safety Code.

2 SECTION 57. Section 504.251, Occupations Code, is amended
3 to read as follows:

4 Sec. 504.251. GROUNDS FOR LICENSE, REGISTRATION, OR
5 CERTIFICATION DENIAL OR DISCIPLINARY ACTION. The commission or
6 executive director [~~department~~] shall refuse to issue a license,
7 registration, or certification [~~issued by the department~~] to an
8 applicant, refuse to renew a person's license, registration, or
9 certification [~~holder's license, registration, or certification~~
10 ~~issued by the department~~], or take disciplinary action against the
11 holder of a license, registration, or certification [~~issued by the~~
12 ~~department~~] if the applicant or license, registration, or
13 certification holder:

14 (1) violates or assists another to violate this
15 chapter or a rule adopted under this chapter;

16 (2) circumvents or attempts to circumvent this chapter
17 or a rule adopted under this chapter;

18 (3) directly or indirectly participates in a plan to
19 evade this chapter or a rule adopted under this chapter;

20 (4) has a license to practice chemical dependency
21 counseling in another jurisdiction refused, suspended, or revoked
22 for a reason that the commission or executive director [~~department~~]
23 determines would constitute a violation of this chapter or a rule
24 adopted under this chapter;

25 (5) engages in false, misleading, or deceptive conduct
26 as defined by Section 17.46, Business & Commerce Code;

27 (6) engages in conduct that discredits or tends to

1 discredit the profession of chemical dependency counseling;

2 (7) directly or indirectly reveals a confidential
3 communication made to the person by a client or recipient of
4 services, except as required by law;

5 (8) refuses to perform an act or service the person is
6 licensed, registered, or certified to perform under this chapter on
7 the basis of the client's or recipient's age, sex, race, religion,
8 national origin, color, or political affiliation; or

9 (9) commits an act for which liability exists under
10 Chapter 81, Civil Practice and Remedies Code.

11 SECTION 58. Sections 504.255(a) and (c), Occupations Code,
12 are amended to read as follows:

13 (a) A person whose license, registration, or certification
14 application is denied under Section 504.1525, whose license,
15 registration, or certification renewal is refused under Section
16 504.2025, or whose license, registration, or certification is
17 suspended [~~under Section 504.2525~~] may appeal the denial, refusal
18 to renew, or suspension on the grounds that:

19 (1) the sole basis for the [~~department's~~]
20 determination is a conviction or placement on community supervision
21 for an offense described by Section 504.1525; and

22 (2) sufficient time, as determined by commission
23 [~~department~~] rule, has expired since the date of the conviction or
24 placement.

25 (c) After a hearing under this section, the commission or
26 executive director [~~department~~] may determine that the person is
27 entitled to a license, registration, or certification under this

1 chapter.

2 SECTION 59. The heading to Subchapter H, Chapter 504,
3 Occupations Code, is amended to read as follows:

4 SUBCHAPTER H. CIVIL PENALTY [~~OTHER PENALTIES AND ENFORCEMENT~~
5 ~~PROVISIONS~~]

6 SECTION 60. Section 504.351, Occupations Code, is amended
7 to read as follows:

8 Sec. 504.351. [~~INJUNCTIVE RELIEF,~~] CIVIL PENALTY. A
9 person who violates [~~(a) If it appears that a person has violated,~~
10 ~~is violating,~~] or threatens [~~is threatening~~] to violate this
11 chapter or a rule adopted under this chapter is liable for a civil
12 penalty of [~~, the department or the attorney general at the request~~
13 ~~of the department may institute an action in district court for an~~
14 ~~injunction, a civil penalty, or both.~~

15 [~~(b) On application for injunctive relief and a finding that~~
16 ~~a person is violating or threatening to violate this chapter or a~~
17 ~~rule adopted under this chapter, the district court may grant~~
18 ~~injunctive relief as the facts warrant. The department is not~~
19 ~~required to give an appeal bond in an appeal of an action seeking~~
20 ~~injunctive relief under this section.~~

21 [~~(c) The amount of a civil penalty imposed under this~~
22 ~~section may~~] not [~~be~~] less than \$50 or more than \$500 for each day of
23 the violation.

24 SECTION 61. Section 505.002, Occupations Code, is amended
25 to read as follows:

26 Sec. 505.002. DEFINITIONS. In this chapter:

27 (1) "Commission" means the Texas Commission of

1 Licensing and Regulation.

2 (2) [~~"Board"~~ means the Texas State Board of Social
3 ~~Worker Examiners.~~

4 [~~(3)~~] "Council on Social Work Education" means the
5 national organization that is primarily responsible for the
6 accreditation of schools of social work in the United States or its
7 successor approved by the commission [~~board~~].

8 (3) [~~(4)~~] "Department" means the Texas Department of
9 Licensing and Regulation [~~State Health Services~~].

10 (4) "Executive director" means the executive director
11 of the department.

12 (5) [~~(4-a)~~] "Licensed baccalaureate social worker"
13 means a person who holds a baccalaureate social worker license
14 issued [~~by the board~~] under this chapter.

15 (6) [~~(4-b)~~] "Licensed clinical social worker" means a
16 person who holds a clinical social worker license issued [~~by the~~
17 ~~board~~] under this chapter.

18 (7) [~~(5)~~] "Licensed master social worker" means a
19 person who holds a master social worker license issued [~~by the~~
20 ~~board~~] under this chapter.

21 (8) [~~(6)~~] "Licensed social worker" means a person who
22 holds a social worker license issued [~~by the board~~] under this
23 chapter.

24 (9) "Social worker" means a person who holds any
25 license issued [~~by the board~~] under this chapter.

26 SECTION 62. Section 505.201, Occupations Code, is amended
27 to read as follows:

1 Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT
2 AUTHORITY. (a) The executive director shall administer and
3 enforce this chapter.

4 (b) The commission [board] may:

5 (1) [~~adopt and enforce rules necessary to perform the~~
6 ~~board's duties under this chapter,~~

7 [~~(2)~~] establish standards of conduct and ethics for
8 license holders; and

9 (2) [del(3)] ensure strict compliance with and
10 enforcement of this chapter.

11 [~~(b) In adopting rules under this section, the board shall~~
12 ~~consider the rules and procedures of the department. The board~~
13 ~~shall adopt procedural rules, which may not be inconsistent with~~
14 ~~similar rules and procedures of the department.]~~

15 (c) The commission [board] by rule may define a term not
16 defined under Section 505.002 if a definition is necessary to
17 administer or enforce this chapter.

18 (d) [del(e)] For each type of license issued under this
19 chapter, the commission [board] shall establish:

20 (1) the minimum eligibility requirements;

21 (2) educational requirements;

22 (3) professional experience criteria;

23 (4) supervision requirements; and

24 (5) independent practice criteria.

25 (e) [del(f)] The commission [board] shall establish procedures
26 for recognition of independent practice.

27 SECTION 63. Section 505.205, Occupations Code, is amended

1 to read as follows:

2 Sec. 505.205. ROSTER OF LICENSE HOLDERS. (a) The
3 department [~~board~~] shall prepare and publish at its discretion a
4 roster that contains the name and address of each person licensed
5 under this chapter.

6 (b) The department [~~board~~] shall mail a copy of the roster
7 to each license holder.

8 (c) The department [~~board~~] may not include in the roster the
9 name and address of a person who is delinquent in the payment of a
10 fee required under this chapter on the date the roster is sent for
11 printing.

12 SECTION 64. Section 505.206, Occupations Code, is amended
13 to read as follows:

14 Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. The
15 department [~~board~~] shall publish a roster of persons recognized
16 under Section 505.307 as qualified for the independent practice of
17 social work.

18 SECTION 65. Section 505.301, Occupations Code, is amended
19 to read as follows:

20 Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The
21 commission [~~board~~] may establish within the scope of social work
22 practice and this chapter specialty areas of social work for
23 license holders under this chapter who are licensed in good
24 standing if establishment of the specialty areas:

- 25 (1) is necessary to promote the public interest; and
26 (2) assists the public in identifying qualified
27 persons in a social work practice specialty.

1 (b) The commission [~~board~~] may not authorize a specialty
2 area within the practice of social work unless the commission
3 [~~board~~] sets the minimum qualifications for social work practice
4 with appropriate supervision and examination [~~, as determined by~~
5 ~~the board~~].

6 (c) The commission [~~board~~] may not establish a specialty
7 area of social work or a specialty area identification that
8 conflicts with a state licensing law.

9 SECTION 66. Section 505.302(a), Occupations Code, is
10 amended to read as follows:

11 (a) In establishing a specialty area of social work, the
12 commission [~~board~~] shall:

- 13 (1) define the scope of the specialty;
- 14 (2) establish qualifications for specialty area
15 practitioners that describe, in accordance with Subdivision (1),
16 the scope of the specialty area;
- 17 (3) adopt rules of conduct to ensure strict compliance
18 with and enforcement of this chapter; and
- 19 (4) adopt rules for the suspension or revocation of an
20 order of recognition of specialty.

21 SECTION 67. Sections 505.303(a) and (c), Occupations Code,
22 are amended to read as follows:

23 (a) The commission [~~board~~] shall establish a specialty area
24 for the practice of clinical social work that is available only to a
25 licensed master social worker who satisfies the minimum number of
26 years of active social work practice with appropriate supervision
27 and clinical examination, as determined by the commission [~~board~~].

1 (c) For purposes of Subchapter C, Chapter 1451, Insurance
2 Code:

3 (1) a person recognized as qualified for the
4 independent practice of clinical social work may use the title
5 "Licensed Clinical Social Worker" or another title approved by the
6 commission [~~board~~]; and

7 (2) a commission-approved [~~board-approved~~] title
8 under this subsection has the same meaning and effect as the title
9 "Licensed Clinical Social Worker."

10 SECTION 68. Section 505.304, Occupations Code, is amended
11 to read as follows:

12 Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The
13 commission [~~board~~] shall prescribe the name, design, and content of
14 an order of recognition of specialty.

15 (b) An order of recognition of specialty must:

16 (1) state the full name of the person recognized in the
17 order; and

18 (2) state the official specialty serial number [~~+~~

19 [~~(3) include the presiding officer's signature, and~~

20 [~~(4) include the board's official seal~~].

21 SECTION 69. Section 505.305, Occupations Code, is amended
22 to read as follows:

23 Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER.

24 (a) The department [~~board~~] shall recognize a social worker as
25 qualified for the practice of a specialty area of social work if the
26 social worker satisfies the recognition requirements established
27 by the commission [~~board~~] and the department [~~board~~] determines

1 that the person is worthy of the public trust in performing services
2 within the scope of the specialty area.

3 (b) The department [~~board~~] shall issue an order of
4 recognition of specialty to a social worker who is recognized as
5 qualified for the practice of a specialty area of social work. The
6 order of recognition of specialty evidences the state's recognition
7 of the social worker as a specialty social work practitioner under
8 the identification or title designated by the commission [~~board~~].

9 SECTION 70. Section 505.306, Occupations Code, is amended
10 to read as follows:

11 Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA
12 IDENTIFICATION OR TITLE. If the commission [~~board~~] establishes a
13 specialty area of social work, a social worker may not use the
14 specialty area identification or title designated by the commission
15 [~~board~~] unless the person is recognized as qualified for the
16 practice of the specialty area under this chapter.

17 SECTION 71. Section 505.307, Occupations Code, is amended
18 to read as follows:

19 Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM
20 QUALIFICATIONS. (a) The commission [~~board~~] shall establish
21 procedures for recognizing a social worker qualified for the
22 independent practice of social work.

23 (b) A social worker may not be recognized as qualified for
24 the independent practice of social work unless the person satisfies
25 the requirements of social work education, experience, and
26 supervision as determined by the commission [~~board~~].

27 SECTION 72. Section 505.352, Occupations Code, is amended

1 to read as follows:

2 Sec. 505.352. LICENSE APPLICATION. A person may apply for a
3 license under this chapter by submitting an application to the
4 department [~~board~~]. The application must:

5 (1) be in the manner and on a form prescribed by the
6 executive director [~~board~~]; and

7 (2) contain statements made under oath regarding the
8 applicant's education and experience and any other information
9 required by the department [~~board~~] that qualifies the applicant for
10 a license.

11 SECTION 73. Section 505.353, Occupations Code, is amended
12 to read as follows:

13 Sec. 505.353. ELIGIBILITY. (a) To be eligible for a
14 license under this chapter, an applicant must:

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

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

17 (3) satisfy the education and experience requirements
18 under this section; and

19 (4) pass the licensing examination conducted by the
20 department [~~board~~] under Section 505.354 and the jurisprudence
21 examination conducted by the department [~~board~~] under Section
22 505.3545.

23 (b) An applicant may take the licensing examination
24 conducted by the department [~~board~~] under Section 505.354 for:

25 (1) a master social worker license if the applicant
26 possesses a doctoral or master's degree in social work from a
27 graduate program that is accredited by or is in candidacy for

1 accreditation by the Council on Social Work Education;

2 (2) a baccalaureate social worker license if the
3 applicant possesses a baccalaureate degree in social work from an
4 educational program that is accredited by or is in candidacy for
5 accreditation by the Council on Social Work Education; or

6 (3) a clinical social worker license if the applicant
7 possesses a doctoral or master's degree in social work from an
8 accredited graduate program approved by the commission [~~board~~] and
9 meets the qualifications for clinical social work practice [~~as~~
10 ~~determined by the board~~] under this chapter.

11 (c) The department [~~board~~] may require an applicant to
12 submit documentary evidence of the quality, scope, and nature of
13 the applicant's experience and competence to:

14 (1) determine the credibility and acceptability of the
15 applicant's professional or technical experience or competence;
16 and

17 (2) ensure the public safety, health, and welfare.

18 SECTION 74. Sections 505.354(a), (b), and (e), Occupations
19 Code, are amended to read as follows:

20 (a) The department [~~board~~], at least once each calendar
21 year, shall prepare and administer an examination to assess an
22 applicant's qualifications for a license under this chapter.

23 (b) Each license examination shall be conducted in a manner
24 that is determined by the department [~~board~~] and is fair and
25 impartial to each applicant and school or system of social work.

26 (e) The department [~~board~~] shall have the written portion of
27 the examination, if any, validated by an independent testing

1 entity.

2 SECTION 75. Section 505.3545, Occupations Code, is amended
3 to read as follows:

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

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

15 SECTION 76. Section 505.356, Occupations Code, is amended
16 to read as follows:

17 Sec. 505.356. REEXAMINATION. The commission [~~board~~] by
18 rule shall establish:

19 (1) a limit on the number of times an applicant who
20 fails an examination may retake the examination;

21 (2) the requirements for retaking an examination; and

22 (3) alternative methods of examining applicants'
23 competency.

24 SECTION 77. Section 505.3575, Occupations Code, is amended
25 to read as follows:

26 Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE
27 APPLICANTS. (a) Notwithstanding any other licensing requirement

1 of this subchapter:

2 (1) the department [~~board~~] may not require an
3 applicant who is licensed in good standing in another state to pass
4 a licensing examination conducted [~~by the board~~] under Section
5 505.354 if an applicant with substantially equivalent experience
6 who resides in this state would not be required to take the
7 licensing examination; and

8 (2) the department [~~board~~] may issue a license to an
9 applicant who is currently licensed in another state to
10 independently practice social work if:

11 (A) after an assessment, the department [~~board~~]
12 determines that the applicant:

13 (i) demonstrates sufficient experience and
14 competence;

15 (ii) has passed the jurisprudence
16 examination conducted [~~by the board~~] under Section 505.3545; and

17 (iii) at the time of the application, is in
18 good standing with the regulatory agency of the state in which the
19 applicant is licensed; and

20 (B) the applicant presents to the department
21 [~~board~~] credentials that the applicant obtained from a national
22 accreditation organization and the department [~~board~~] determines
23 that the requirements to obtain the credentials are sufficient to
24 minimize any risk to public safety.

25 (b) When assessing the experience and competence of an
26 applicant for the purposes of this section, the department [~~board~~]
27 may take into consideration any supervision received by the

1 applicant in another state or jurisdiction if the department
2 [~~board~~] determines that the supervision would be taken into
3 consideration for the purpose of licensing or certification in the
4 state or jurisdiction in which the applicant received the
5 supervision.

6 SECTION 78. Section 505.358, Occupations Code, is amended
7 to read as follows:

8 Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply
9 for a provisional license as a social worker by paying the
10 appropriate fee and filing an application with the department in
11 the manner and on a form prescribed by the executive director
12 [~~board~~]. The department [~~board~~] may issue a provisional license to
13 a person who meets the requirements of this section.

14 (b) An applicant for a provisional license must:

15 (1) be licensed or certified in good standing as a
16 social worker in another state that has licensing or certification
17 requirements determined by the department [~~board~~] to be
18 substantially equivalent to the requirements of this chapter;

19 (2) have passed a national or other examination
20 recognized by the commission [~~board~~] relating to the practice of
21 social work; and

22 (3) be sponsored by a person licensed under this
23 chapter with whom the provisional license holder may practice
24 social work.

25 (c) An applicant is not required to comply with Subsection
26 (b)(3) if the department [~~board~~] determines that compliance
27 constitutes a hardship to the applicant.

1 (d) A provisional license is valid until the date the
2 department [~~board~~] approves or denies the provisional license
3 holder's application for a license under Section 505.359.

4 SECTION 79. Section 505.359, Occupations Code, is amended
5 to read as follows:

6 Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
7 HOLDER. (a) The department [~~board~~] shall issue an appropriate
8 license to a provisional license holder:

9 (1) who passes the licensing examination under Section
10 505.354 and the jurisprudence examination under Section 505.3545;

11 (2) for whom the department [~~board~~] verifies that the
12 person satisfies the academic and experience requirements under
13 Section 505.353; and

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

16 (b) The department [~~board~~] shall complete the processing of
17 a provisional license holder's application for a license not later
18 than the 180th day after the date the provisional license is issued
19 or the date licenses are issued after successful completion of the
20 next licensing and jurisprudence examinations, whichever date is
21 later.

22 (c) The department [~~board~~] may waive a license requirement
23 for an applicant who is licensed or certified in another state if
24 this state has entered into a reciprocity agreement with that
25 state.

26 SECTION 80. The heading to Subchapter H, Chapter 505,
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER H. TERM [~~RENEWAL~~] OF LICENSE OR [~~AND~~] ORDER OF
2 RECOGNITION OF SPECIALTY

3 SECTION 81. Section 505.401, Occupations Code, is amended
4 to read as follows:

5 Sec. 505.401. TERM OF LICENSE OR ORDER OF RECOGNITION OF
6 SPECIALTY [~~STAGGERED EXPIRATION DATES~~]. [~~(a)~~] A license or order
7 of recognition of specialty issued under this chapter is valid for
8 two years.

9 [~~(a-1) The board by rule shall adopt a system under which~~
10 ~~licenses and orders of recognition of specialty expire on various~~
11 ~~dates during the year.~~

12 [~~(b) In the year in which the expiration date of an order of~~
13 ~~recognition of specialty is changed, the total renewal fee is~~
14 ~~payable.~~]

15 SECTION 82. Section 505.405, Occupations Code, is amended
16 to read as follows:

17 Sec. 505.405. GROUND FOR REFUSING RENEWAL. The department
18 [~~board~~] may refuse to renew the license of a person who fails to pay
19 an administrative penalty imposed under Subchapter F, Chapter 51,
20 [~~K~~] unless enforcement of the penalty is stayed or a court has
21 ordered that the administrative penalty is not owed.

22 SECTION 83. The heading to Subchapter I, Chapter 505,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER I. DENIAL OF LICENSE OR ORDER; [~~AND~~] DISCIPLINARY
25 ACTIONS [~~PROCEDURES~~]

26 SECTION 84. Section 505.451, Occupations Code, is amended
27 to read as follows:

1 Sec. 505.451. GROUNDS FOR DENIAL OF LICENSE OR ORDER OF
2 RECOGNITION OF SPECIALTY; DISCIPLINARY ACTION. The commission or
3 executive director [~~board~~] shall deny an application for a license
4 or order of recognition of specialty and shall revoke or suspend,
5 including a suspension on an emergency basis, a license or order,
6 place a holder of a license or order that has been suspended on
7 probation, refuse to renew a person's license, or reprimand a
8 holder of a license or order for:

9 (1) violating this chapter or a rule adopted [~~by the~~
10 ~~board~~] under this chapter;

11 (2) circumventing or attempting to circumvent the
12 requirements of this chapter or a rule adopted [~~by the board~~] under
13 this chapter;

14 (3) directly or indirectly participating in a scheme
15 to evade the requirements of this chapter or a rule adopted [~~by the~~
16 ~~board~~] under this chapter;

17 (4) engaging in unethical conduct;

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

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

23 (7) knowingly associating with or permitting the use
24 of a license holder's professional services or identification in
25 connection with an enterprise that the person knows or should have
26 known in the exercise of reasonable diligence violates this chapter
27 or a rule adopted [~~by the board~~] under this chapter;

1 (8) knowingly associating with or permitting the use
2 of a license holder's name, professional services or
3 identification, or endorsement in connection with an enterprise
4 that the person knows or should have known in the exercise of
5 reasonable diligence is a trade, business, or professional practice
6 of a fraudulent, deceitful, or misleading nature;

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

11 (10) having been denied an application for a license
12 or certificate to practice social work in another jurisdiction for
13 a reason that the commission or executive director [~~board~~]
14 determines would be a violation of this chapter or a rule adopted
15 [~~by the board~~] under this chapter;

16 (11) holding a license or certificate in another
17 jurisdiction that is suspended or revoked for a reason that the
18 commission or executive director [~~board~~] determines would be a
19 violation of this chapter or a rule adopted [~~by the board~~] under
20 this chapter;

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

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

27 (14) committing an act for which liability exists

1 under Chapter 81, Civil Practice and Remedies Code.

2 SECTION 85. Section 505.454, Occupations Code, is amended
3 to read as follows:

4 Sec. 505.454. SANCTIONS FOR HOLDER OF EXPIRED LICENSE OR
5 ORDER OF RECOGNITION OF SPECIALTY. ~~[(a)]~~ A person who holds an
6 expired license or order of recognition of specialty under this
7 chapter is subject to a sanction under this chapter if the
8 commission or executive director ~~[board]~~ determines that the person
9 violated this chapter or a rule adopted ~~[by the board]~~ under this
10 chapter during the period in which the license or order was valid.

11 ~~[(b) Sections 505.455(b) and (c) and 505.456 apply to a
12 disciplinary proceeding against a person under this section.]~~

13 SECTION 86. Section 505.458, Occupations Code, is amended
14 to read as follows:

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

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

26 SECTION 87. Section 505.504, Occupations Code, is amended
27 to read as follows:

1 Sec. 505.504. CIVIL PENALTY. (a) A person who violates or
2 threatens to violate this chapter, a rule adopted [~~by the board~~]
3 under this chapter, or an order issued [~~by the board or department~~]
4 under this chapter is liable to the state for a civil penalty of not
5 less than \$50 or more than \$500 for each day of violation.

6 (b) At the request of the commission or executive director
7 [~~board or department~~], the attorney general shall initiate and
8 conduct an action in a district court in the state's name to obtain
9 a civil penalty under this section.

10 SECTION 88. Section 505.505, Occupations Code, is amended
11 to read as follows:

12 Sec. 505.505. APPEAL BOND NOT REQUIRED. The [~~board or~~]
13 department is not required to post an appeal bond in any action
14 arising under this chapter.

15 SECTION 89. Section 505.506, Occupations Code, is amended
16 to read as follows:

17 Sec. 505.506. REPRESENTATION BY ATTORNEY GENERAL. The
18 attorney general shall represent the [~~board or~~] department in an
19 action brought to enforce this chapter.

20 SECTION 90. Section 411.122(d), Government Code, is amended
21 to read as follows:

22 (d) The following state agencies are subject to this
23 section:

- 24 (1) Texas Appraiser Licensing and Certification
25 Board;
26 (2) Texas Board of Architectural Examiners;
27 (3) Texas Board of Chiropractic Examiners;

- 1 (4) State Board of Dental Examiners;
- 2 (5) Texas Board of Professional Engineers;
- 3 (6) Texas Funeral Service Commission;
- 4 (7) Texas Board of Professional Geoscientists;
- 5 (8) Department of State Health Services, except as
- 6 provided by Section 411.110 [~~, and agencies attached to the~~
- 7 ~~department, including:~~
- 8 [~~(A) Texas State Board of Examiners of~~
- 9 ~~Dietitians,~~
- 10 [~~(B) Texas State Board of Examiners of Marriage~~
- 11 ~~and Family Therapists,~~
- 12 [~~(C) Midwifery Board,~~
- 13 [~~(D) Texas State Perfusionist Advisory~~
- 14 ~~Committee,~~
- 15 [~~(E) Texas State Board of Examiners of~~
- 16 ~~Professional Counselors,~~
- 17 [~~(F) Texas State Board of Social Worker~~
- 18 ~~Examiners,~~
- 19 [~~(G) State Board of Examiners for~~
- 20 ~~Speech-Language Pathology and Audiology,~~
- 21 [~~(H) Advisory Board of Athletic Trainers,~~
- 22 [~~(I) State Committee of Examiners in the Fitting~~
- 23 ~~and Dispensing of Hearing Instruments,~~
- 24 [~~(J) Texas Board of Licensure for Professional~~
- 25 ~~Medical Physicists, and~~
- 26 [~~(K) Texas Board of Orthotics and Prosthetics];~~
- 27 (9) Texas Board of Professional Land Surveying;

- 1 (10) Texas Department of Licensing and Regulation,
2 except as provided by Section 411.093;
- 3 (11) Texas Commission on Environmental Quality;
- 4 (12) Texas Board of Occupational Therapy Examiners;
- 5 (13) Texas Optometry Board;
- 6 (14) Texas State Board of Pharmacy;
- 7 (15) Texas Board of Physical Therapy Examiners;
- 8 (16) Texas State Board of Plumbing Examiners;
- 9 (17) Texas State Board of Podiatric Medical Examiners;
- 10 (18) Texas State Board of Examiners of Psychologists;
- 11 (19) Texas Real Estate Commission;
- 12 (20) Texas Department of Transportation;
- 13 (21) State Board of Veterinary Medical Examiners;
- 14 (22) Texas Department of Housing and Community
15 Affairs;
- 16 (23) secretary of state;
- 17 (24) state fire marshal;
- 18 (25) Texas Education Agency;
- 19 (26) Department of Agriculture; and
- 20 (27) Texas Department of Motor Vehicles.

21 SECTION 91. Section 36.132(a)(2), Human Resources Code, is
22 amended to read as follows:

- 23 (2) "Licensing authority" means:
- 24 (A) the Texas Medical Board;
- 25 (B) the State Board of Dental Examiners;
- 26 (C) the Texas State Board of Examiners of
27 Psychologists;

1 (D) [~~the Texas State Board of Social Worker~~
2 ~~Examiners,~~

3 [~~(E)~~] the Texas Board of Nursing;

4 (E) [~~(F)~~] the Texas Board of Physical Therapy
5 Examiners;

6 (F) [~~(G)~~] the Texas Board of Occupational
7 Therapy Examiners; or

8 (G) [~~(H)~~] another state agency authorized to
9 regulate a provider who receives or is eligible to receive payment
10 for a health care service under the Medicaid program.

11 SECTION 92. Sections 1451.001(4), (9), (10), and (11),
12 Insurance Code, are amended to read as follows:

13 (4) "Chemical dependency counselor" means an
14 individual licensed under Chapter 504, Occupations Code [~~by the~~
15 ~~Texas Commission on Alcohol and Drug Abuse~~].

16 (9) "Licensed clinical social worker" means an
17 individual licensed by the Texas Department of Licensing and
18 Regulation [~~State Board of Social Worker Examiners~~] as a licensed
19 clinical social worker.

20 (10) "Licensed professional counselor" means an
21 individual licensed under Chapter 503, Occupations Code [~~by the~~
22 ~~Texas State Board of Examiners of Professional Counselors~~].

23 (11) "Marriage and family therapist" means an
24 individual licensed under Chapter 502, Occupations Code [~~by the~~
25 ~~Texas State Board of Examiners of Marriage and Family Therapists~~].

26 SECTION 93. Section 110.001(7), Occupations Code, is
27 amended to read as follows:

1 (7) "Sex offender treatment provider" means a person,
2 licensed by the council and recognized based on training and
3 experience to provide assessment and treatment to adult sex
4 offenders or juveniles with sexual behavioral problems who have
5 been convicted, adjudicated, awarded deferred adjudication, or
6 referred by a state agency or a court, and licensed in this state to
7 practice as a physician, psychiatrist, psychologist, psychological
8 associate, provisionally licensed psychologist, licensed
9 professional counselor, licensed professional counselor intern,
10 licensed marriage and family therapist, licensed marriage and
11 family associate, licensed clinical social worker, licensed master
12 social worker under a clinical supervision plan approved by the
13 Texas Department of Licensing and Regulation [~~State Board of Social~~
14 ~~Worker Examiners~~], or advanced practice nurse recognized as a
15 psychiatric clinical nurse specialist or psychiatric mental health
16 nurse practitioner, who provides mental health or medical services
17 for rehabilitation of sex offenders.

18 SECTION 94. Section [411.1105](#), Government Code, is repealed.

19 SECTION 95. The following provisions of the Occupations
20 Code are repealed:

- 21 (1) Section [502.002](#)(1);
- 22 (2) Section [502.003](#);
- 23 (3) Subchapter B, Chapter [502](#);
- 24 (4) Subchapter C, Chapter [502](#);
- 25 (5) Section [502.152](#);
- 26 (6) Section [502.153](#);
- 27 (7) Section [502.154](#);

- 1 (8) Section 502.155;
- 2 (9) Section 502.156;
- 3 (10) Section 502.1565;
- 4 (11) Section 502.158;
- 5 (12) Section 502.161;
- 6 (13) Section 502.162;
- 7 (14) Section 502.163;
- 8 (15) Subchapter E, Chapter 502;
- 9 (16) Section 502.255;
- 10 (17) Section 502.258;
- 11 (18) Section 502.260;
- 12 (19) Sections 502.301(b), (c), (d), and (e);
- 13 (20) Section 502.302;
- 14 (21) Section 502.303;
- 15 (22) Section 502.352;
- 16 (23) Section 502.353;
- 17 (24) Section 502.354;
- 18 (25) Section 502.355;
- 19 (26) Section 502.356;
- 20 (27) Subchapter I, Chapter 502;
- 21 (28) Section 502.451;
- 22 (29) Section 502.452;
- 23 (30) Section 502.455;
- 24 (31) Section 503.005;
- 25 (32) Subchapter C, Chapter 503;
- 26 (33) Subchapter D, Chapter 503;
- 27 (34) Section 503.202;

- 1 (35) Section 503.203;
- 2 (36) Section 503.204;
- 3 (37) Section 503.2045;
- 4 (38) Section 503.205;
- 5 (39) Section 503.209;
- 6 (40) Section 503.210;
- 7 (41) Section 503.211;
- 8 (42) Subchapter F, Chapter 503;
- 9 (43) Section 503.306;
- 10 (44) Section 503.308;
- 11 (45) Section 503.312;
- 12 (46) Section 503.352;
- 13 (47) Section 503.353;
- 14 (48) Section 503.354;
- 15 (49) Section 503.355;
- 16 (50) Section 503.356;
- 17 (51) Sections 503.401(c) and (d);
- 18 (52) Section 503.402;
- 19 (53) Section 503.403;
- 20 (54) Section 503.404;
- 21 (55) Section 503.405;
- 22 (56) Section 503.406;
- 23 (57) Section 503.451;
- 24 (58) Section 503.454;
- 25 (59) Subchapter K, Chapter 503;
- 26 (60) Section 504.0515;
- 27 (61) Section 504.053;

- 1 (62) Section 504.054;
- 2 (63) Section 504.056;
- 3 (64) Subchapter C, Chapter 504;
- 4 (65) Sections 504.157(a) and (b);
- 5 (66) Section 504.158(c);
- 6 (67) Section 504.160;
- 7 (68) Section 504.161;
- 8 (69) Section 504.202;
- 9 (70) Section 504.203;
- 10 (71) Section 504.204;
- 11 (72) Section 504.205(a);
- 12 (73) Section 504.252;
- 13 (74) Section 504.2525;
- 14 (75) Section 504.253;
- 15 (76) Section 504.254;
- 16 (77) Subchapter G, Chapter 504;
- 17 (78) Section 505.005;
- 18 (79) Subchapter B, Chapter 505;
- 19 (80) Subchapter C, Chapter 505;
- 20 (81) Section 505.202;
- 21 (82) Section 505.203;
- 22 (83) Section 505.204;
- 23 (84) Section 505.209;
- 24 (85) Section 505.210;
- 25 (86) Section 505.211;
- 26 (87) Subchapter E, Chapter 505;
- 27 (88) Section 505.355;

- 1 (89) Section 505.357;
- 2 (90) Section 505.402;
- 3 (91) Section 505.403;
- 4 (92) Section 505.404;
- 5 (93) Section 505.452;
- 6 (94) Section 505.453;
- 7 (95) Section 505.455;
- 8 (96) Section 505.456;
- 9 (97) Section 505.457;
- 10 (98) Section 505.501;
- 11 (99) Section 505.503;
- 12 (100) Section 505.508; and
- 13 (101) Subchapter K, Chapter 505.

14 SECTION 96. (a) A rule or fee of the Department of State
15 Health Services that relates to a program transferred under this
16 Act and that is in effect on the effective date of this Act remains
17 in effect until changed by the Texas Commission of Licensing and
18 Regulation.

19 (b) A license, registration, or certification issued by the
20 Department of State Health Services relating to a program
21 transferred under this Act is continued in effect as a license,
22 registration, or certification of the Texas Department of Licensing
23 and Regulation after the effective date of this Act.

24 (c) A complaint, investigation, contested case, or other
25 proceeding before the Department of State Health Services relating
26 to a program transferred under this Act that is pending on the
27 effective date of this Act is transferred without change in status

1 to the Texas Commission of Licensing and Regulation or Texas
2 Department of Licensing and Regulation, as appropriate.

3 SECTION 97. (a) As soon as practicable after the effective
4 date of this Act, the Department of State Health Services and the
5 Texas Department of Licensing and Regulation shall adopt a
6 transition plan to provide for the orderly transfer of powers,
7 duties, functions, programs, and activities under this Act. The
8 transition plan must provide for each program to be transferred on
9 or before September 1, 2018.

10 (b) The Department of State Health Services shall provide
11 the Texas Department of Licensing and Regulation with access to any
12 systems or information necessary for the Texas Department of
13 Licensing and Regulation to accept a program transferred under this
14 Act.

15 (c) On the date specified in the transition plan required
16 under Subsection (a) of this section for the transfer of a
17 particular program to the Texas Department of Licensing and
18 Regulation, if applicable, the existing board associated with the
19 program is abolished.

20 (d) On the date specified in the transition plan required
21 under Subsection (a) of this section for the transfer of a
22 particular program to the Texas Department of Licensing and
23 Regulation, all full-time equivalent employee positions at the
24 Department of State Health Services that primarily concern the
25 administration or enforcement of the program being transferred
26 become positions at the Texas Department of Licensing and
27 Regulation. The Texas Department of Licensing and Regulation shall

1 post the positions for hiring and, when filling the positions,
2 shall give consideration to, but is not required to hire, an
3 applicant who, immediately before the date of the transfer, was an
4 employee at the Department of State Health Services primarily
5 involved in administering or enforcing the transferred program.

6 SECTION 98. To the extent of any conflict, this Act prevails
7 over another Act of the 85th Legislature, Regular Session, 2017,
8 relating to nonsubstantive additions to and corrections in enacted
9 codes.

10 SECTION 99. This Act takes effect September 1, 2017.