

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1501
By: Nevárez (Nichols)
Health & Human Services
5/8/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Sunset Advisory Commission (Sunset) conducted a limited scope review of four behavioral health boards following a full Sunset review conducted in 2016–2017 and the failure of the resulting Sunset bill to pass during the 85th Legislative Session. These boards include the Texas State Board of Examiners of Psychologists, an independent state agency, and the Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Worker Examiners, which are administratively attached to the Health and Human Services Commission (HHSC).

The Sunset review found serious, ongoing, and systemic problems relating to ineffective administrative processes at the three boards under HHSC. Sunset once again determined that the administrative attachment of the marriage and family therapy, professional counseling, and social work boards to HHSC is still not working and fails to efficiently regulate these professions, putting vulnerable Texans at risk. Based on its findings, Sunset again recommends consolidating these boards with the psychology board to form the Texas Behavioral Health Executive Council (BHEC). As an umbrella licensing agency, BHEC would handle licensing, investigative, and enforcement matters for the behavioral health occupations in a more efficient, functional approach.

Major Provisions in Sunset Legislation

- Consolidates the licensing and regulation of mental and behavioral health occupations into a new umbrella licensing agency to improve regulation and increase operational efficiencies.
- Retains each governor-appointed board and its responsibility to establish all standards relating to licensing and regulating its profession, including originating all rules related to standards of care and practice.
- Requires each board to appoint one of its professional members and one of its public members to serve with a public member appointed by the governor on the agency's nine-member executive council. Authorizes the executive council to direct BHEC's operations and standardize regulatory procedures to gain efficiencies and economies of scale.
- Updates licensing and enforcement processes that have not kept up with best practices.
- Removes unnecessary and burdensome licensure requirements that create barriers to entry.
- Eliminates a subjective oral examination and increases flexibility in post-doctoral supervision requirements for psychologists, as well as other overly bureaucratic paperwork requirements.
- Adopts the psychology interjurisdictional compact (PSYPACT).

- Improves access to care in member states by facilitating the practice of telepsychology and temporary in-person practice of psychology across state lines. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1501 amends current law relating to the creation of the Texas Behavioral Health Executive Council and to the continuation and transfer of the regulation of psychologists, marriage and family therapists, professional counselors, and social workers to the Texas Behavioral Health Executive Council; provides civil and administrative penalties; and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Behavioral Health Executive Council in SECTION 1.001 (Sections 507.152–507.153, 507.156, 507.202, 507.204, 507.253, 507.259, 507.304, 507.305, 507.306, and 507.404, Occupations Code), SECTION 2.021 (Section 501.301, Occupations Code), SECTION 2.026 (Section 501.411, Occupations Code), SECTION 2.064 (Section 503.3025, Occupations Code), and SECTION 4.007 of this bill.

Rulemaking authority is expressly granted to the Psychology Interjurisdictional Compact Commission in SECTION 2.028 (Section 501.601, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Examiners of Psychologists (TSBEP) is transferred to the Texas Behavioral Health Executive Council in SECTION 2.014 (Section 501.253, Occupations Code), SECTION 2.017 (Section 501.260, Occupations Code), SECTION 2.019 (Section 501.263, Occupations Code), and SECTION 2.021 (Section 501.301, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Examiners of Marriage and Family Therapists (BMFT) is transferred to the Texas Behavioral Health Executive Council in SECTION 2.042 (Section 502.2541, Occupations Code), SECTION 2.043 (Section 502.2545, Occupations Code), and SECTION 2.045 (Section 502.258, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Examiners of Professional Counselors is transferred to the Texas Behavioral Health Executive Council in SECTION 2.061 (Section 503.201, Occupations Code), SECTION 2.068 (Section 503.3055, Occupations Code), SECTION 2.069 (Section 503.308, Occupations Code), and SECTION 2.073 (Section 503.313, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Social Worker Examiners (TSBSWE) is transferred to the Texas Behavioral Health Executive Council in SECTION 2.087 (Section 505.201, Occupations Code), SECTION 2.091 (Section 505.302, Occupations Code), SECTION 2.100 (Section 505.3545, Occupations Code), and SECTION 2.105 (Section 505.401, Occupations Code) of this bill.

Rulemaking authority previously granted to TSBEP is rescinded in SECTION 2.113 (Subchapter E, Chapter 501, and Sections 501.151, 501.152, 501.157, 501.256, 501.2561, 501.304, 501.404, and 501.410, Occupations Code) of this bill.

Rulemaking authority previously granted to BMFT is rescinded in SECTION 2.113 (Subchapter E, Chapter 502, and Sections 502.152, 502.153, 502.1565, 502.158, 502.303, 502.353, and 502.452, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Examiners of Professional Counselors is rescinded in SECTION 2.113 (Subchapters F and K, Chapter 503, and Sections 503.202, 503.203, 503.2045, 503.209, 503.356, 503.402, 503.404, and 503.405, Occupations Code) of this bill.

Rulemaking authority previously granted to TSBSWE is rescinded in SECTION 2.087 (Section 505.201, Occupations Code) and SECTION 2.113 (Subchapters E and K, Chapter 505, and

Sections 505.203, 505.204, 505.209, 505.356, 505.404, 505.456, 505.457, and 505.501, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

SECTION 1.001. Amends Subtitle I, Title 3, Occupations Code, by adding Chapter 507, as follows:

CHAPTER 507. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 507.001. DEFINITIONS. Defines "executive council," "license," "marriage and family therapy board," "professional counseling board," "psychology board," and "social work board."

Sec. 507.002. APPLICATION OF SUNSET ACT. Provides that the Texas Behavioral Health Executive Council (executive council) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the executive council is abolished and this chapter and Chapters 501 (Psychologists), 502 (Marriage and Family Therapists), 503 (Licensed Professional Counselors), and 505 (Social Workers) expire September 1, 2031.

SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

Sec. 507.051. EXECUTIVE COUNCIL MEMBERSHIP. (a) Provides that the executive council consists of nine members as follows:

- (1) one marriage and family therapist member and one public member of the Texas State Board of Examiners of Marriage and Family Therapists (BMFT), each appointed by BMFT;
- (2) one licensed professional counselor member and one public member of the Texas State Board of Examiners of Professional Counselors (professional counseling board), each appointed by the professional counseling board;
- (3) one psychologist member and one public member of the Texas State Board of Examiners of Psychologists (TSBEP), each appointed by TSBEP;
- (4) one social worker member and one public member of the Texas State Board of Social Worker Examiners (TSBSWE), each appointed by TSBSWE; and
- (5) one public member appointed by the governor.

(b) Requires that appointments to the executive council be made without regard to the race, color, disability, sex, age, religion, or national origin of the appointee.

Sec. 507.052. ELIGIBILITY OF PUBLIC MEMBER APPOINTED BY GOVERNOR. Provides that a person is not eligible for appointment by the governor as a public member of the executive council if the person or the person's spouse:

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

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the executive council, BMFT, the professional counseling board, TSBEP, or TSBSWE;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the executive council, BMFT, the professional counseling board, TSBEP, or TSBSWE; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the executive council, BMFT, the professional counseling board, TSBEP, or TSBSWE, other than compensation or reimbursement authorized by law for the executive council, BMFT, the professional counseling board, TSBEP, or TSBSWE membership, attendance, or expenses.

Sec. 507.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Defines "Texas trade association" as 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 for purposes of this section.

(b) Prohibits a person from being a member of the executive council and from being 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 the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care, or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) Prohibits a person from being a member of the executive council or acting as the general counsel to the executive council if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the executive council, BMFT, the professional counseling board, TSBEP, or TSBSWE.

Sec. 507.054. TERMS; VACANCY. (a) Provides that the member appointed by the governor serves a six-year term. Provides that the remaining members serve two-year terms with the terms of four of those members expiring February 1 of each year.

(b) Provides that a member appointed to fill a vacancy holds office for the unexpired portion of the term.

Sec. 507.055. PRESIDING OFFICER. Provides that the member appointed by the governor is the presiding officer of the executive council.

Sec. 507.056. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal from the executive council that a member does not have at the time of taking office the qualifications required by Section 507.051, does not maintain during service on the executive council the qualifications required by Section 507.051, is ineligible for membership under Section 507.052 or 507.053, cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term, or is absent from more than half of the regularly scheduled executive council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the executive council.

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

(c) Requires the executive director, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of the executive council of the potential ground. Requires the presiding officer to then notify the appointing authority and the Texas attorney general (attorney general) that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the executive council, who is then required to notify the appointing authority and the attorney general that a potential ground for removal exists.

Sec. 507.057. REIMBURSEMENT. Authorizes the reimbursement of a member of the executive council for travel expenses as provided by the General Appropriations Act.

Sec. 507.058. MEETINGS. (a) Requires the executive council to hold at least two regular meetings each year.

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

Sec. 507.059. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of the executive council from voting, deliberating, or being 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) Requires the training program to provide the person with information regarding:

- (1) the law governing executive council operations;
- (2) the programs, functions, rules, and budget of the executive council;
- (3) the scope of and limitations on the rulemaking authority of the executive council;
- (4) the types of executive council rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates, including any rule, interpretation, or enforcement action that takes certain, enumerated actions;
- (5) the results of the most recent formal audit of the executive council;
- (6) 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 executive council in performing their duties; and
- (7) any applicable ethics policies adopted by the executive council or the Texas Ethics Commission.

(c) Provides that a person appointed to the executive council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel

expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Requires the executive director of the executive council to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each executive council member. Requires each executive council member to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

Sec. 507.101. EXECUTIVE DIRECTOR; PERSONNEL. Requires the executive council to employ an executive director and other personnel as necessary to administer this chapter and carry out the functions of the executive council.

Sec. 507.102. DIVISION OF RESPONSIBILITIES. Requires the executive council to 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. 507.103. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) Requires the executive director or the executive director's designee to develop an intra-agency career ladder program. Requires the program to require intra-agency posting of all nonentry level positions concurrently with any public posting.

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

Sec. 507.104. EQUAL OPPORTUNITY POLICY; REPORT. (a) Requires the executive director or the executive director's designee to 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. Requires the policy statement to include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with the requirements of Chapter 21 (Employment Discrimination), Labor Code;

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

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

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

(b) Requires a policy statement prepared under Subsection (a) to cover an annual period, to be updated annually, to be reviewed by the Texas Workforce Commission for compliance with Subsection (a)(1), and to be filed with the governor.

(c) Requires the governor to deliver a biennial report to the legislature based on information received under Subsection (b). Authorizes the report to be made separately or as part of other biennial reports made to the legislature.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 507.151. GENERAL POWERS AND DUTIES. (a) Requires the executive council to administer and enforce this chapter and Chapters 501, 502, 503, and 505.

(b) Authorizes the executive council, in carrying out its duties under this section, to request input or assistance from the board for the applicable profession.

Sec. 507.152. GENERAL RULEMAKING AUTHORITY. Requires the executive council to adopt rules as necessary to perform its duties and implement this chapter.

Sec. 507.153. LIMITATION REGARDING CERTAIN RULES. (a) Prohibits the executive council, unless the rule has been proposed by the applicable board for the profession, the executive council from adopting under this chapter or Chapter 501, 502, 503, or 505:

(1) a rule regarding the qualifications necessary to obtain a license, including limiting an applicant's eligibility for a license based on the applicant's criminal history, the scope of practice of and standards of care and ethical practice for the profession, or continuing education requirements for license holders; or

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

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

(c) Provides that 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) Requires the executive council to adopt rules prescribing the procedure by which rules described by Subsection (a) may be proposed to the executive council.

Sec. 507.154. FEES. Requires the executive council to set fees in amounts reasonable and necessary to cover the costs of administering this chapter and Chapters 501, 502, 503, and 505, including fees for licenses issued by the executive council, license renewals and late renewals, examinations, and any other program or activity administered by the executive council for which a fee is authorized.

Sec. 507.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.

(a) Prohibits the executive council from adopting rules restricting advertising or competitive bidding by a person regulated by the executive council except to prohibit false, misleading, or deceptive practices.

(b) Prohibits the executive council from including in rules to prohibit false, misleading, or deceptive practices by a person regulated by the executive council a rule that restricts the person's use of any advertising medium, restricts the person's personal appearance or use of the person's voice in an advertisement, relates to the size or duration of an advertisement by the person, or restricts the use of a trade name in advertising by the person.

Sec. 507.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. Requires the executive council to adopt rules and guidelines as necessary to comply with Chapter 53 (Consequences of Criminal Conviction).

Sec. 507.157. CONTINUING EDUCATION. Requires the executive council to recognize, prepare, or administer continuing education programs for license holders. Requires a license holder to participate in the programs to the extent required by the executive council to keep the person's license.

Sec. 507.158. USE OF TECHNOLOGY. Requires the executive council to implement a policy requiring the executive council to use appropriate technological solutions to improve the executive council's ability to perform its functions. Requires the policy to ensure that the public is able to interact with the executive council on the Internet.

Sec. 507.159. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the executive council to develop a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of executive council rules, and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution For Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the executive council's jurisdiction.

(b) Requires the executive council's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution by state agencies.

(c) Requires the executive council to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking and alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

Sec. 507.160. ANNUAL REGISTRY. (a) Requires the executive council to annually prepare a registry of all license holders.

(b) Requires the executive council to make the registry available to the public, license holders, and other state agencies.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 507.201. PUBLIC INTEREST INFORMATION. (a) Requires the executive council to 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) Requires the executive council to make the information available to the public and appropriate state agencies.

Sec. 507.202. COMPLAINTS. (a) Requires the executive council by rule to 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. Authorizes the executive council to provide for that notice on each registration form, application, or written contract for services of a person regulated by the executive council, on a sign prominently displayed in the place of business of a person regulated by the executive council, or in a bill for services provided by a person regulated by the executive council.

(b) Requires the executive council to list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a person regulated by the executive council.

Sec. 507.203. INFORMATION ABOUT COMPLAINT ACTIONS. (a) Requires the executive council to maintain a system to promptly and efficiently act on complaints filed with the executive council. Requires the executive council to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires the executive council to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the executive council to periodically notify the parties to a complaint of the status of the complaint until final disposition of the complaint.

Sec. 507.204. GENERAL RULES REGARDING COMPLAINT INVESTIGATION. (a) Requires the executive council to adopt rules concerning the investigation of a complaint filed with the executive council. Requires the rules adopted under this section to:

(1) distinguish between categories of complaints;

(2) ensure that a complaint is not dismissed without appropriate consideration;

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

(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) Requires the executive council to dispose of a complaint in a timely manner, and 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) Requires the executive council to notify the parties to a complaint of the projected time requirements for pursuing the complaint.

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

(e) Requires the executive director to 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) Requires the executive council to assign priorities and investigate complaints based on the severity of the conduct alleged in the complaint, and the degree of harm to public health and safety.

Sec. 507.205. CONFIDENTIALITY OF COMPLAINT INFORMATION. (a) Provides that, except as provided by Subsection (b), a complaint and investigation and all information and materials compiled by the executive council in connection with the

complaint and investigation are not subject to disclosure under Chapter 552 (Public Information), Government Code, or disclosure, discovery, subpoena, or other means of legal compulsion for release of information to any person.

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

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

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

(3) the board for the applicable profession

(4) a law enforcement agency;

(5) a governmental agency, if the disclosure is required or permitted by law, and if the agency obtaining the disclosure protects the identity of any patient whose records are examined; or

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

(c) Requires the executive council, unless good cause for delay is shown to the presiding officer at the hearing, to provide the license holder with access to all information that the executive council intends to offer into evidence at the hearing not later than the 30th day after the date the executive council receives a written request from a license holder who is entitled to a hearing under this chapter or from the license holder's attorney of record.

(d) Requires the executive council to protect the identity of any patient whose records are examined in connection with a disciplinary investigation or proceeding against a license holder, except a patient who initiates the disciplinary action, or has submitted a written consent to release the records.

Sec. 507.206. SUBPOENAS. (a) Authorizes the executive director or presiding officer of the executive council, in the investigation of a complaint filed with the executive council, to issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(b) Authorizes a subpoena to be served personally or by certified mail.

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

(d) Requires the court to order the person to comply with the subpoena on finding that good cause exists for issuing the subpoena. Authorizes the court to punish a person who fails to obey the court order.

(e) Requires the executive council to pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the executive council may charge for copies of its records.

(f) Provides that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103 (Expenses of Witness or Deponent), Government Code.

(g) Authorizes information and materials subpoenaed or compiled by the executive council in connection with the investigation of a complaint to be disclosed only as provided by Section 507.205.

Sec. 507.207. PUBLIC PARTICIPATION. Requires the executive council to develop and implement policies that provide the public with a reasonable opportunity to appear before the executive council and to speak on any issue under the jurisdiction of the executive council.

SUBCHAPTER F. GENERAL LICENSING PROVISIONS

Sec. 507.251. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) Requires the executive council to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the executive council, to the executive council or to the Department of Public Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI).

(b) Prohibits the executive council from issuing a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires the executive council to conduct a criminal history record information check of each applicant for a license using information provided by the individual under this section, and made available to the executive council by DPS, the FBI, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(d) Authorizes the executive council to enter into an agreement with DPS to administer a criminal history record information check required under this section, and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history record information check.

Sec. 507.252. EXAMINATION RESULTS. (a) Requires the executive council to notify each examinee of the results of an examination not later than the 30th day after the date the examination is administered. Requires the executive council to notify each examinee of the results of the examination not later than the 14th day after the date the executive council receives the results from the testing service if an examination is graded or reviewed by a national testing service.

(b) Requires the executive council to notify each examinee of the reason for a delay before the 90th day if the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date.

(c) Requires the executive council to provide to the person an analysis of the person's performance on the examination if requested in writing by a person who fails an examination.

Sec. 507.253. REEXAMINATION. Requires the executive council by rule to establish a limit on the number of times an applicant for a license who fails an examination may retake the examination, and the requirements for retaking an examination.

Sec. 507.254. FORM OF LICENSE. Requires a license issued by the executive council to include the name of the board applicable to the license holder.

Sec. 507.255. LICENSE RENEWAL. (a) Authorizes a person who is otherwise eligible to renew a license to renew an unexpired license by paying the required renewal fee to the executive council before the expiration date of the license.

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

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

(d) Prohibits a person from renewing a license if the person's license has been expired for one year or more. Authorizes a person to obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Sec. 507.256. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE PRACTITIONER. (a) Authorizes the executive council to renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applies for renewal.

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

Sec. 507.257. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) Requires an applicant renewing a license issued under this chapter to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 507.251.

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

(c) Provides that a license holder is not required to submit fingerprints under this section for the renewal of a license if the license holder has previously submitted fingerprints under Section 507.251 for the initial issuance of the license, or this section as part of a prior license renewal.

Sec. 507.258. SEARCH OF NATIONAL PRACTITIONER DATABASE. Requires the executive council to establish a process to search at least one national practitioner database to determine whether another state has taken any disciplinary or other legal action against an applicant or license holder before issuing an initial or renewal license.

Sec. 507.259. ASSISTANCE IN LICENSING DETERMINATIONS. Requires the executive council to adopt rules establishing the manner in which the executive council will solicit input from and request the assistance of the applicable board for a profession regulated by the executive council when the executive council is considering an application for the issuance or renewal of a license that involves an issue related to standards of care or an applicant's professional qualifications.

SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES

Sec. 507.301. DISCIPLINARY ACTIONS. Authorizes the executive council to deny, revoke, suspend, or refuse to renew a license or to 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 507.258 if the violation would constitute a violation described by Subdivision (1), (2), or (3) had it occurred in this state.

(b) Authorizes the executive council to place on probation a person whose license is suspended. Authorizes the executive council, if a license suspension is probated, to require the person to report regularly to the executive council on matters that are the basis of the probation, limit the person's practice to the areas prescribed by the executive council, or 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. 507.302. TEMPORARY SUSPENSION. (a) Requires the executive council or a three-member committee of executive council members designated by the executive council to temporarily suspend the license of a license holder if the executive council or committee determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

(b) Authorizes the suspension under this section of a license without notice or hearing on the complaint if action is taken to initiate proceedings for a hearing before SOAH simultaneously with the temporary suspension, and a hearing is held as soon as practicable under this chapter and Chapter 2001 (Administrative Procedure), Government Code.

(c) Requires SOAH to hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. Requires that a final hearing on the matter be held not later than the 61st day after the date of the temporary suspension.

Sec. 507.303. HEARING; ADMINISTRATIVE PROCEDURE. (a) Provides that a license holder is entitled to a hearing before SOAH before a sanction is imposed under this subchapter.

(b) Provides that a proceeding under this subchapter is governed by Chapter 2001, Government Code.

Sec. 507.304. SCHEDULE OF SANCTIONS. (a) Requires the executive council by rule to adopt a broad schedule of sanctions.

(b) Requires SOAH to use the schedule for any sanction imposed under this subchapter as the result of a hearing conducted by that office.

Sec. 507.305. INFORMAL PROCEEDINGS. (a) Requires the executive council by rule to adopt procedures governing informal disposition of a contested case under Section 2001.056 (Informal Disposition of Contested Case), Government Code, and an informal proceeding held in compliance with Section 2001.054 (Licenses), Government Code.

(b) Requires rules adopted under this section to provide the complainant and the license holder with an opportunity to be heard and 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. 507.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS. (a) Requires the executive council to adopt rules establishing the manner in which the executive council will solicit input from and request the assistance of the applicable board for a profession

regulated by the executive council, regarding a disciplinary proceeding before the executive council involving an issue or complaint related to standards of care or ethical practice.

(b) Requires rules adopted under this section to include a process for referring a complaint to the applicable board if the complaint alleges a substantive violation of a standard of care or ethical guideline for the profession or an act of a license holder that violates the profession's scope of practice.

(c) Requires the executive council, on receiving a recommended disposition of a complaint from the applicable board, to adopt the recommended disposition unless the executive council makes certain determinations.

SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 507.351. IMPOSITION OF ADMINISTRATIVE PENALTY. Authorizes the executive council to 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. 507.352. AMOUNT OF PENALTY. (a) Prohibits the amount of an administrative penalty from exceeding \$5,000 for each violation. Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) Requires the amount of the penalty to be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and 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. 507.353. NOTICE OF VIOLATION AND PENALTY. Requires the executive council to give written notice of a violation to the person alleged to have committed the violation if the executive council determines that a violation occurred. Authorizes the notice to be given by certified mail. Requires the notice to include a brief summary of the alleged violation, state the amount of the administrative penalty recommended by the executive council, and 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. 507.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Authorizes a person who receives notice under Section 507.353, not later than the 20th day after the date the person receives notice, to in writing accept the executive council's determination and recommended administrative penalty, or request a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) Requires the executive council to issue an order and impose the recommended penalty if the person accepts the executive council's determination and recommended penalty.

Sec. 507.355. HEARING. (a) Requires the executive council, if a person who receives a notice under Section 507.353 requests a hearing or fails to respond in a timely manner to that notice, to set a hearing and give written notice of the hearing to the person.

(b) Requires an administrative law judge of SOAH to hold the hearing.

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

Sec. 507.356 DECISION BY EXECUTIVE COUNCIL. (a) Authorizes the executive council, based on the findings of fact, conclusions of law, and proposal for a decision, by order to determine that a violation occurred and impose an administrative penalty, or that a violation did not occur.

(b) Requires the executive council to give notice of the order to the person. Requires the notice to include a statement of the right of the person to judicial review of the order.

Sec. 507.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Requires the person to, not later than the 30th day after the date the executive council's order becomes final, pay the administrative penalty or file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Authorizes a person who files a petition for judicial review to, within the 30-day period prescribed by Subsection (a):

(1) stay enforcement of the penalty by:

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

(B) giving to the court a supersedeas bond approved by the court that is for the amount of the penalty, and effective until judicial review of the executive council's order is final; or

(2) request the court to stay enforcement of the penalty by filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond, and giving a copy of the affidavit to the executive council by certified mail.

(c) Authorizes the executive council, if the executive council receives a copy of an affidavit under Subsection (b)(2), to file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

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

Sec. 507.358. COLLECTION OF PENALTY. Authorizes the executive council, if the person does not pay the administrative penalty and enforcement of the penalty is not stayed, to refer the matter to the attorney general for collection of the penalty.

Sec. 507.359. DETERMINATION BY COURT. (a) Authorizes the court, if the court sustains the determination that a violation has occurred, to uphold or reduce the amount

of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) Requires the court, if the court does not sustain the determination that a violation occurred, to order that a penalty is not owed.

Sec. 507.360. REMITTANCE OF PENALTY AND INTEREST. (a) Requires the court, if the administrative penalty is reduced or not imposed by the court after judicial review, to, after the judgment becomes final:

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

(2) order the release of the bond if the person gave a supersedeas bond and the penalty is not imposed, or after the person pays the penalty if the person gave a supersedeas bond and the penalty is reduced.

(b) Provides that the interest paid under Subsection (a)(1) is the rate charged on loans to depository institutions by the New York Federal Reserve Bank. Requires the interest to be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 507.361. ADMINISTRATIVE PROCEDURE. Provides that a proceeding under this subchapter is subject to Chapter 2001, Government Code.

SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 507.401. INJUNCTION. (a) Authorizes the executive council, in addition to any other action authorized by law, to institute an action to enjoin a violation of this chapter, a law regulating the applicable profession, or an executive council rule.

(b) Requires an action filed under this section to be filed in Travis County, the county of the defendant's residence, or the county in which any part of the violation occurred.

(c) Requires the attorney general or the appropriate county or district attorney to represent the executive council in an action under this section.

Sec. 507.402. CIVIL PENALTY. (a) Provides that a person who violates this chapter, a law regulating the applicable profession, or an executive council rule is liable to the state for a civil penalty not to exceed \$1,000 for each day of violation.

(b) Requires the attorney general, at the request of the executive council, to bring an action to recover a civil penalty authorized under this section.

Sec. 507.403. CEASE AND DESIST ORDER. (a) Authorizes the executive council, if it appears to the executive council that an unlicensed person is violating this chapter, a law regulating the applicable profession, or an executive council rule, to issue a cease and desist order prohibiting the person from engaging in the activity after notice and opportunity for a hearing.

(b) Provides that a violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter H.

Sec. 507.404. MONITORING OF LICENSE HOLDER. Requires the executive council by rule to develop a system to monitor a license holder's compliance with applicable laws and executive council rules. Requires rules adopted under this section to include procedures to monitor for compliance a license holder who is ordered by the executive council to perform certain acts, and identify and monitor each license holder who represents a risk to the public.

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

SECTION 2.001. Amends Section 501.002, Occupations Code, by adding Subdivision (1-a) to define "executive council" as the Texas Behavioral Health Executive Council.

SECTION 2.002. Amends the heading to Section 501.053, Occupations Code, to read as follows:

Sec. 501.053. MEMBERSHIP RESTRICTIONS.

SECTION 2.003. Amends Sections 501.053(b) and (c), Occupations Code, as follows:

(b) Deletes existing text prohibiting a person from being a TSBEP 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 the person fits certain criteria. Prohibits a person from being a member of TSBEP if the person fits certain criteria.

(c) Prohibits a person from being a member of TSBEP, rather than from being a member of TSBEP or acting as the general counsel to TSBEP, 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 TSBEP.

SECTION 2.004. Amends Section 501.055(c), Occupations Code, as follows:

(c) Requires the executive director of the executive council, rather than the executive director of TSBEP, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of TSBEP of the potential ground.

SECTION 2.005. Amends Section 501.059, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires the training program to provide the person with information regarding:

(1) the law governing TSBEP operations;

(2) the programs, functions, rules, and budget, rather than this chapter and the programs, functions, rules, and budget, of TSBEP;

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

(4) the types of TSBEP rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business TSBEP regulates, including any rule, interpretation, or enforcement action that takes certain enumerated actions;

(5) creates this subdivision from existing Subdivision (2) and renumbers subdivisions accordingly;

(6) the requirements of:

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

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

(7) creates this subdivision from existing Subdivision (4) and makes no further changes to this subdivision.

Makes nonsubstantive changes throughout Subsection (b).

(d) Requires the executive director of the executive council to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each TSBEP member. Requires each TSBEP member to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 2.006. Amends the heading to Subchapter D, Chapter 501, Occupations Code, to read as follows:

SUBCHAPTER D. POWERS AND DUTIES

SECTION 2.007. Amends the heading to Section 501.151, Occupations Code, to read as follows:

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

SECTION 2.008. Amends Sections 501.151(c) and (d), Occupations Code, as follows:

(c) Requires the executive council, rather than TSBEP, to adopt and publish a code of ethics under this chapter.

(d) Authorizes the executive council, rather than TSBEP, to certify the specialty of health service providers under this chapter.

SECTION 2.009. Amends Subchapter D, Chapter 501, Occupations Code, by adding Section 501.1515, as follows:

Sec. 501.1515. BOARD DUTIES. Requires TSBEP to 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;

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

(C) continuing education requirements for license holders; and

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

SECTION 2.010. Amends Section 501.155, Occupations Code, as follows:

Sec. 501.155. VOLUNTARY GUIDELINES. (a) Authorizes the executive council, rather than TSBEP, to cooperate with an agency that is not subject to this chapter to formulate voluntary guidelines to be observed in the training, activities, and supervision of persons who perform psychological services.

(b) Prohibits the executive council, rather than TSBEP, from adopting a rule that relates to the administration of an agency that is not subject to this chapter.

SECTION 2.011. Amends Section 501.158, Occupations Code, as follows:

Sec. 501.158. COMPETENCY REQUIREMENTS. (a) Provides that this section applies to a person who is:

- (1) applying to take the license examination, rather than the provisional license examination;
- (2) makes no changes to this subdivision;
- (3) currently licensed under this chapter, rather than licensed by TSBEP; or
- (4) otherwise providing psychological services under a license approved by the executive council under this chapter, rather than approved by TSBEP.

(b) Authorizes the executive council on a determination by the executive council based on the executive council's reasonable belief, rather than authorizing TSBEP on a determination by TSBEP based on TSBEP's reasonable belief, that a person is not physically and mentally competent to provide psychological services with reasonable skill and safety to patients or has a physical or mental disease or condition that would impair the person's competency to provide psychological services to request the person to submit to:

(1)–(2) makes conforming changes to these subdivisions.

(c) Requires the executive council to issue an order requiring a person who refuses to submit to an examination under this section, rather than requiring TSBEP to issue an order requiring an applicant or person seeking renewal of a provisional license who refuses to submit to an examination under this section, to show cause for the person's refusal at a hearing on the order scheduled not later than the 30th day after the date notice is served on the person. Makes a conforming change.

(d) Makes a conforming change to this subsection.

(e) Authorizes the executive council, unless the request is withdrawn, to take disciplinary action against a person who refuses to submit to the physical or mental examination. Deletes existing text prohibiting a person who refuses to submit to the physical or mental examination from taking the provisional license examination or renewing the person's license, as appropriate.

(f) Makes a conforming change to this subsection.

SECTION 2.012. Amends Section 501.252(a), Occupations Code, as follows:

(a) Requires that a person, to be licensed under this chapter, apply to the executive council, rather than TSBEP, for a license. Requires the executive council, rather than TSBEP, to issue a license to an applicant who:

- (1) is qualified for the license under Section 501.2525, rather than complies with this section; and
- (2) makes a conforming change to this subdivision.

SECTION 2.013. Redesignates Section 501.255, Occupations Code, as Section 501.2525, Occupations Code, and amends it as follows:

Sec. 501.2525. New heading: LICENSE QUALIFICATIONS. (a) Provides that an applicant is qualified for a license under this chapter, rather than that an applicant is authorized to take an examination for a provisional license, if the applicant:

(1) makes no changes to this subdivision;

(2) except as provided by Subsection (c) and Section 501.253 (Provisional License), has:

(A) at least two years of supervised experience in the field of psychological services, one year of which may be as part of the doctoral program and at least one year of which began after the date the person's doctoral degree was conferred by an institution of higher education; and

(B) passed any examination required by Section 501.256 (Examinations);

(3) creates this subdivision from existing Subdivision (2) and deletes existing text relating to having good moral character;

(4) is physically and mentally competent to provide psychological services with reasonable skill and safety, as determined by the executive council, rather than as determined by TSBEP;

(5)–(9) makes no changes to these subdivisions.

(b) Requires the executive council, rather than TSBEP, in determining under Subsection (a)(1)(B) whether a degree is substantially equivalent to a doctoral degree in psychology, to 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) Provides that Subsection (a)(2)(A) does not apply to an applicant who is licensed in good standing in another state to independently practice psychology and has independently practiced psychology in that state for at least five years.

(d) Provides that, 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. Authorizes the executive council, to determine the acceptability of an applicant's experience, to require documentary evidence of the quality, scope, and nature of the applicant's experience. Authorizes the executive council to count toward the supervised experience an applicant is required to obtain after the applicant's degree is conferred any hours of supervised experience the applicant completed as part of a degree program accredited by the American Psychological Association, the Canadian Psychological Association, or a substantially equivalent degree program.

SECTION 2.014. Amends Section 501.253, Occupations Code, as follows:

Sec. 501.253. New heading: PROVISIONAL STATUS FOR CERTAIN APPLICANTS.

(a) Authorizes the executive council to issue a 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)–(3) Deletes these subdivisions and existing text requiring TSBEP to issue a provisional license to an applicant who has passed the examinations prescribed by TSBEP, satisfied the preliminary requirements of Sections 501.254 and 501.255, and paid the fee for a provisional license.

(b) Entitles a license holder described by Subsection (a) 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 license holder is licensed in another state to independently practice psychology and is in good standing in that state, the license holder is entitled to practice psychology without the supervision of a psychologist, rather than entitling a provisional license holder to practice psychology under the supervision of a psychologist to meet the requirements for issuance of a license under Section 501.252. Deletes existing text providing that a provisional license holder who is licensed in another state to independently practice psychology and is in good standing in that state and who seeks a license in this state is entitled to practice psychology without the supervision of a psychologist during the time that the TSBEP is processing the person's application for a license.

(c) Requires the executive council to adopt rules that apply to a license holder described by Subsection (a), rather than requiring TSBEP to adopt rules that apply to a provisional license holder, identifying:

(1)–(2) makes conforming and nonsubstantive changes to these subdivisions.

(d) Authorizes the executive council to refuse to renew a license issued under Subsection (a) if the license holder does not meet the requirements prescribed by Section 501.2525(a)(2), rather than authorizing TSBEP to refuse to renew the provisional license of a person who does not meet the requirements prescribed by Section 501.255.

(e) Prohibits the executive council from restricting the issuance of a license, rather than prohibiting TSBEP from restricting 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.

Deletes existing Subsection (f). Deletes existing text authorizing TSBEP to issue a provisional license to an applicant 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 TSBEP and TSBEP determines that the requirements for obtaining those credentials from that organization are sufficient to protect the public. Deletes existing text requiring an applicant who obtains a provisional license under this subsection to have passed the examination described by Section 501.256(b)(2) (relating to a requirement that TSBEP issue an examination that tests an applicant's knowledge of the laws and rules governing the profession of psychology in this state).

SECTION 2.015. Amends Sections 501.256, Occupations Code, by amending Subsections (a), (b), (c), and (d), and adding Subsection (b-1), as follows:

(a) Requires the executive council to administer to qualified applicants at least annually any written examination required by executive council rules, rather than requiring TSBEP to administer to qualified applicants at least annually the oral and written examination required by TSBEP rules. Requires an examination to be validated by an independent testing professional, rather than requiring TSBEP to have the written portion of the examination, if any, validated by an independent testing professional.

(b) Requires TSBEP to determine the subject and scope of each examination, rather than requiring TSBEP to determine the subject and scope of the examinations and establish appropriate fees for examinations administered.

(b-1) Requires the executive council to establish appropriate fees for examinations administered under this chapter.

(c) Authorizes the executive council, rather than TSBEP, to waive the discipline and professional segment of the examination requirement for an applicant who:

(1) makes no changes to this subdivision; or

(2) in the executive council's judgment, rather than in TSBEP's judgment, has demonstrated competence in the areas covered by the examination.

(d) Makes conforming changes to this subsection.

SECTION 2.016. Amends Section 501.259, Occupations Code, as follows:

Sec. 501.259. LICENSING OF PSYCHOLOGICAL ASSOCIATE. (a) Requires the executive council, rather than TSBEP, to set standards for the issuance of licenses to psychological personnel who hold a master's degree from an accredited university or college in a program that is primarily psychological in nature.

(b) Makes a conforming change to this subsection.

SECTION 2.017. Amends Sections 501.260(a) and (b), Occupations Code, as follows:

(a) Makes a conforming change to this subsection.

(b) Requires the standards set by the executive council, rather than by TSBEP, to qualify for a license under this section to include:

(1)–(3) makes no changes to these subdivisions;

(4) makes conforming changes to this subdivision; and

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

SECTION 2.018. Amends Section 501.262, Occupations Code, as follows:

Sec. 501.262. RECIPROCAL LICENSE. Authorizes the executive council, rather than TSBEP, to enter into and implement agreements with other jurisdictions for the issuance of a license by reciprocity if the other jurisdiction's requirements for licensing, certification, or registration are substantially equal to the requirements of this chapter.

SECTION 2.019. Amends Sections 501.263(a), (b), (c), and (e), Occupations Code, as follows:

(a) Authorizes the executive council, rather than TSBEP, to issue a temporary license to an applicant seeking to practice in this state for a limited time and limited purpose if the applicant:

(1) makes no changes to this subdivision;

(2) makes conforming changes to this subdivision;

(3)–(4) makes no changes to these subdivisions;

(5)–(6) makes conforming changes to these subdivisions.

(b), (c), and (e) Makes conforming changes to these subsections.

SECTION 2.020. Amends Section 501.264(a), Occupations Code, to authorize a psychologist to place the psychologist's license on inactive status by applying to the executive council and

paying a fee established by the executive council, rather than by applying to TSBEP and paying a fee established by TSBEP.

SECTION 2.021. Amends Section 501.301, Occupations Code, as follows:

Sec. 501.301. New heading: LICENSE EXPIRATION AND RENEWAL. (a) Requires the executive council to adopt rules providing for the expiration and renewal of a license issued under this chapter, rather than providing that a license issued under this chapter expires on December 31 of the year following the date the license is issued or renewed. Requires the rules to require a license to be renewed annually or biennially. Deletes existing text providing that a license of a psychological associate expires on May 31 of the year following the date the license is issued or renewed.

(b) Makes conforming changes to this subsection.

SECTION 2.022. Amends Sections 501.351(a) and (c), Occupations Code, as follows:

(a) Authorizes a psychologist licensed under this chapter to delegate to a psychologist who holds a license described by Section 501.253, a newly licensed psychologist who is not eligible for managed care panels, a person who holds a temporary license issued under Section 501.263, or a person enrolled in a formal internship as provided by executive council rules any psychological test or service that a reasonable and prudent psychologist could delegate within the scope of sound psychological judgment if the psychologist determines that makes certain determinations. Deletes existing text authorizing a psychologist licensed under this chapter to delegate to a provisionally licensed psychologist, certain persons, a person enrolled in a formal internship as provided by TSBEP rules, and a person who satisfies Section 501.255(a) and is in the process of acquiring the supervised experience required by Section 501.252(b)(2) (relating to a person needing at least two years of supervised experience in the field of psychological services under certain criteria before being licensed as a psychologist).

(c) Authorizes the executive council, rather than TSBEP, to determine whether a psychological test or service may be properly and safely delegated under this section and whether a delegated act constitutes the practice of psychology under this chapter.

SECTION 2.023. Amends Section 501.401, Occupations Code, as follows:

Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION. Requires the executive council to take disciplinary action under Subchapter G, Chapter 507, against a license holder who, rather than requiring TSBEP to revoke or suspend a holder's license, place on probation a person whose license has been suspended, or reprimand a license holder who:

(1) violates this chapter or a rule adopted under this chapter, rather than violates this chapter or a rule adopted by TSBEP; and

(2)–(6) makes no changes to these subdivisions.

SECTION 2.024. Amends Section 501.407, Occupations Code, as follows:

Sec. 501.407. REMEDIAL CONTINUING EDUCATION. Authorizes the executive council, rather than TSBEP, to require a license holder who violates this chapter to participate in a continuing education program. Requires the executive council, rather than TSBEP, to 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 2.025. Amends Section 501.408, Occupations Code, as follows:

Sec. 501.408. CORRECTIVE ADVERTISING. Authorizes the executive council, rather than TSBEP, to order corrective advertising if a psychologist, individually or under an assumed name, engages in false, misleading, or deceptive advertising.

SECTION 2.026. Amends Subchapter I, Chapter 501, Occupations Code, by adding Section 501.411, as follows:

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

(b) Requires the executive council by rule to establish the types of complaints or violations that may be resolved with a remedial plan. Requires the rules to provide that a remedial plan may not be imposed to resolve a complaint involving conduct that poses a significant risk of harm to a patient, or in which the appropriate resolution may involve revoking, suspending, limiting, or restricting a person's license.

(c) Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license, or assesses an administrative penalty against a person.

(d) Prohibits the executive council from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the executive council for the resolution of a different complaint filed under this chapter.

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

SECTION 2.027. Amends Section 501.505, Occupations Code, as follows:

Sec. 501.505. OPTION TO ORDER REFUND. (a) Authorizes the executive council, rather than TSBEP, under an agreement resulting from an informal settlement conference, to order a license holder to refund to the person who paid for the psychological services at issue an amount not to exceed the amount the person paid to the license holder for a service regulated by this chapter instead of or in addition to imposing an administrative penalty under Subchapter H, Chapter 507, rather than in addition to imposing an administrative penalty under this chapter.

(b) Prohibits the executive council, rather than TSBEP, from including an estimation of other damages or harm in a refund order.

SECTION 2.028. Amends Chapter 501, Occupations Code, by adding Subchapter L, as follows:

SUBCHAPTER L. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

Sec. 501.601. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. Provides that the Psychology Interjurisdictional Compact is enacted and entered into and sets forth the language to be used in the compact.

Sec. 501.602. RULES ADOPTED UNDER COMPACT. Prohibits the Psychology Interjurisdictional Compact Commission (commission) established under the Psychology Interjurisdictional Compact under Section 501.601 from adopting rules that alter the requirements or scope of practice of a license issued under this chapter. Provides that any rule adopted by the commission that purports to alter the requirements or scope of practice of a license issued under this chapter is not enforceable.

Sec. 501.603. DISCLOSURE OF PERSONAL INFORMATION. (a) Authorizes the executive council, in reporting information to the Coordinated Licensure Information System under Article IX (Coordinated Licensure Information System) of the Psychology Interjurisdictional Compact, to disclose personally identifiable information about a person who holds a license under this chapter, including the person's social security number.

(b) Prohibits the Coordinated Licensure Information System from sharing personally identifiable information with a state that is not a party to the compact unless the state agrees to not disclose that information to any other person.

SECTION 2.029. Amends Sections 502.002(2) and (5), Occupations Code, as follows:

(2) Defines "executive council." Deletes existing text defining "commissioner."

(5) Defines "licensed marriage and family therapist associate" as an individual who offers to provide marriage and family therapy for compensation under the supervision of a supervisor approved by the executive council, rather than under the supervision of a BMFT-approved supervisor.

SECTION 2.030. Amends the heading to Section 502.053, Occupations Code, to read as follows:

Sec. 502.053. MEMBERSHIP RESTRICTIONS.

SECTION 2.031. Amends Sections 502.053(b) and (c), Occupations Code, as follows:

(b) Deletes existing text prohibiting a person from being a Department of State Health Services (DSHS) 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 the person meets certain criteria. Prohibits a person from being a member of BMFT if the person meets certain criteria.

(c) Prohibits a person from being a member of BMFT, rather than prohibiting a person from being a member of BMFT or acting as general counsel to BMFT or DSHS, 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 BMFT.

SECTION 2.032. Amends Section 502.056(c), Occupations Code, to require the executive director of the executive council, rather than the executive director of BMFT, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of BMFT of the potential ground.

SECTION 2.033. Amends Section 502.059, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires the training program to provide the person with information regarding:

(1) the laws governing BMFT operations, rather than this chapter;

(2) the programs, functions, rules, and budget of BMFT,

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

(4) the types of BMFT rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business BMFT regulates, including any rule, interpretation, or enforcement action that takes certain enumerated actions;

(5) makes no further changes to this subdivision;

(6) the requirements of:

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

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

(7) creates this subdivision from existing Subdivision (8) and makes no further changes.

Deletes text relating to requiring the training program to provide the person with information regarding the programs operated by BMFT, the rule and functions of BMFT, the rules of BMFT with an emphasis on the rules that relate to disciplinary and investigative authority, and the current budget of BMFT. Makes nonsubstantive changes throughout Subsection (b).

(d) Requires the executive director of the executive council to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each BMFT member. Requires each BMFT member to sign and submit to the executive director a statement acknowledging the member received and has reviewed the training manual.

SECTION 2.034. Amends the heading to Subchapter D, Chapter 502, Occupations Code, to read as follows:

SUBCHAPTER D. POWERS AND DUTIES

SECTION 2.035. Amends Section 502.151, Occupations Code, as follows:

Sec. 502.151. New heading: GENERAL POWERS AND DUTIES OF EXECUTIVE COUNCIL. Requires the executive council, rather than BMFT, to take certain enumerated actions.

SECTION 2.036. Amends Subchapter D, Chapter 502, Occupations Code, by adding Section 502.1515, as follows:

Sec. 502.1515. BOARD DUTIES. Requires BMFT to 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;

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

(C) continuing education requirements for license holders; and

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

SECTION 2.037. Amends Section 502.155, Occupations Code, as follows:

Sec. 502.155. POWERS AND DUTIES REGARDING EXAMINATION. Requires the executive council, rather than BMFT, to:

(1)–(2) make no changes to these subdivisions; and

(3) give reasonable public notice of the examinations in the manner provided by executive council rules, rather than by BMFT rules.

SECTION 2.038. Amends Section 502.159, Occupations Code, as follows:

Sec. 502.159. EX PARTE COMMUNICATION PROHIBITED. Prohibits a member of the executive council or BMFT or employee of the executive council or BMFT, rather than a DSHS employee who performs functions for BMFT, who is assigned to make a decision, a finding of fact, or a conclusion of law in a proceeding pending before the executive council, rather than before the BMFT, from directly or indirectly communicating with a party to the proceeding or the party's representative unless notice and an opportunity to participate are given to each party to the proceeding.

SECTION 2.039. Amends Section 502.252, Occupations Code, as follows:

Sec. 502.252. LICENSE APPLICATION. (a) Requires an applicant for a license to:

(1) file a written application with the executive council on a form prescribed by the executive council, rather than file a written application with BMFT on a form prescribed by BMFT; and

(2) makes no changes to this subdivision.

(b) Requires a person, to qualify for a license as a licensed marriage and family therapist associate, to:

(1) makes no changes to this subdivision;

(2) makes a conforming change to this subdivision;

(3) pass the license examination and jurisprudence examination determined by BMFT;

(4) makes conforming changes to this subdivision; and

(5) deletes existing text relating to good moral character and redesignates existing Subdivision (6) as this subdivision. Renumbers subsequent subdivisions accordingly and makes no further changes to those subdivisions.

(c) Provides that an applicant is eligible to apply for a license as a licensed marriage and family therapist if the person:

(1) makes no changes to this subdivision;

(2) makes nonsubstantive changes and specifies certain hour requirements required by executive council rule;

(A)–(B) deletes these paragraphs; and

(3) makes a conforming change to this subdivision.

SECTION 2.040. Amends Sections 502.253(a), (b), and (c), Occupations Code, as follows:

(a) Requires the executive council, rather than BMFT, to investigate each application and any other information submitted by the applicant.

(b)–(c) makes conforming changes to these subsections.

SECTION 2.041. Amends Sections 502.254(b) and (d), Occupations Code, as follows:

(b) Requires an applicant for a license as a licensed marriage and family therapist associate under Section 502.252(b) to:

(1) makes a conforming change to this subdivision; and

(2) pay the examination fee, rather than pay the fee set by the executive commissioner of the Health and Human Services Commission (HHSC) by rule.

(d) makes a conforming change to this subsection.

SECTION 2.042. Amends Section 502.2541, Occupations Code, as follows:

Sec. 502.2451. JURISPRUDENCE EXAMINATION. (a) Requires BMFT to develop a jurisprudence examination to determine an applicant's knowledge of this chapter, rules adopted under this chapter, and any other applicable laws of this state affecting the applicant's practice of marriage and family therapy, rather than requiring BMFT to develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, BMFT rules, and any other applicable laws of this state affecting the applicant's practice of marriage and family therapy. Requires the executive council to administer the examination at least twice each calendar year.

(b) Makes a conforming change to this subsection.

SECTION 2.043. Amends Section 502.2545. Occupations Code, as follows:

Sec. 502.2545. WAIVER OF EXAMINATION FOR CERTAIN APPLICANTS. Authorizes the executive council, rather than BMFT, to 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)–(2) makes conforming changes to these subdivisions.

(b) Makes a conforming change to this subsection.

SECTION 2.044. Amends Section 502.257, Occupations Code, as follows:

Sec. 502.257. ISSUANCE OF LICENSE. Requires the executive council, rather than BMFT, to issue a license as a licensed marriage and family therapist associate or licensed marriage and family therapist, as appropriate to an applicant who:

(1) makes no changes to this subdivision;

(2) makes a conforming change to this subdivision; and

(3) makes no changes to this subdivision.

SECTION 2.045. Amends Section 502.258(a), Occupations Code, to authorize the executive council, rather than BMFT, by rule to provide for the issuance of a temporary license.

SECTION 2.046. Amends Section 502.259, Occupations Code, as follows:

Sec. 502.259. PROVISIONAL LICENSE. (a) Authorizes the executive council, rather than BMFT, to grant a provisional license to practice as a marriage and family therapist in this state without examination to an applicant who meets certain criteria.

(b)–(e) Makes conforming changes to these subsections.

SECTION 2.047 Amends Sections 502.260(a), (b), and (d), Occupations Code, as follows:

(a) Authorizes the executive council, rather than BMFT, to place a license holder's license under this chapter on inactive status if the holder is not actively engaged in the practice of marriage and family therapy and the holder submits a written request to the executive council, rather than to BMFT, before the expiration of the holder's license.

(b)–(d) Makes conforming changes to these subsections.

SECTION 2.048. Amends Section 502.261(b), Occupations Code, to require each license holder to notify the executive council, rather than BMFT, of the license holder's current address.

SECTION 2.049. Amends Section 502.301(a), Occupations Code, to require the executive council, rather than BMFT, to adopt a system under which licenses expire on various dates during the year.

SECTION 2.050. Amends the heading to Subchapter H, Chapter 502, Occupations Code, to read as follows:

SUBCHAPTER H. DISCIPLINARY ACTIONS

SECTION 2.051. Amends Section 502.351, Occupations Code, as follows:

Sec. 502.351. GROUND FOR DISCIPLINARY ACTION. Requires the executive council, rather than BMFT, to take disciplinary action under Subchapter G, Chapter 507, against a license holder who fits certain criteria.

Deletes existing text requiring BMFT to reprimand a license holder, place on probation a person whose license has been suspended, refuse to renew a person's license, and suspend or revoke a holder's license if the person fits certain criteria. Makes nonsubstantive changes.

SECTION 2.052. Amends Section 502.357, Occupations Code, as follows:

Sec. 502.357. GROUND FOR REFUSING RENEWAL. Authorizes the executive council, rather than BMFT, to refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter H, Chapter 507, rather than under Subchapter I, Chapter 502, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.053. Amends Section 502.358, Occupations Code, as follows:

Sec. 502.358. REFUND. Authorizes the executive council, rather than BMFT, subject to Subsection (b), to 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 Subchapter H, Chapter 507, rather than under this chapter.

(b) Makes a conforming change to this subsection.

SECTION 2.054. Amends the heading to Subchapter J, Chapter 502, Occupations Code, to read as follows:

SUBCHAPTER J. CRIMINAL PENALTY

SECTION 2.055. Amends Section 503.002(2), Occupations Code, as follows:

- (2) Defines "executive council" and deletes existing text defining "department."

SECTION 2.056. Amends the heading to Section 503.104, Occupations Code, to read as follows:

Sec. 503.104. MEMBERSHIP RESTRICTIONS.

SECTION 2.057. Amends Sections 503.104(b) and (c), Occupations Code, as follows:

- (b) Prohibits a person from being a member of the professional counseling board if the person fits certain criteria.

Deletes existing text prohibiting a certain person from being a DSHS 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 the person fits certain criteria.

- (c) Deletes existing text prohibiting a person from acting as the general counsel to the professional counseling board or DSHS 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 professional counseling board.

SECTION 2.058. Amends Section 503.107(c), Occupations Code, to require the executive director of the executive council, rather than the executive director of the professional counseling board, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of the professional counseling board of the potential ground.

SECTION 2.059. Amends Section 503.110, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

- (b) Requires the training program to provide the person with information regarding:

- (1) the law governing professional counseling board operations;

- (2) the programs, functions, rules, and budget of the professional counseling board, rather than this chapter and the counseling board's programs, functions, rules, and budget;

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

- (4) the types of professional counseling board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the professional counseling board regulates, including any rule, interpretation, or enforcement action that takes certain enumerated actions;

- (5) redesignates existing Subdivision (2) as this subdivision and makes no further changes;

- (6) redesignates existing Subdivision (3) as this subdivision. Requires the training program to provide information regarding the requirements of:

- (A) creates this paragraph from existing Subdivision (3) and specifies disclosure of conflicts of interest, rather than conflicts-of-interest; and

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

(7) redesignates existing Subdivision (4) as this subdivision and makes no further changes.

(d) Requires the executive director of the executive council to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each professional counseling board member. Requires each professional counseling board member to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 2.060. Amends the heading to Subchapter E, Chapter 503, Occupations Code, to read as follows:

SUBCHAPTER E. POWERS AND DUTIES

SECTION 2.061. Amends Section 503.201, Occupations Code, as follows:

Sec. 503.201. New heading: GENERAL POWERS AND DUTIES OF EXECUTIVE COUNCIL. (a) Requires the executive council, rather than the professional counseling board, to:

(1)–(2) makes no changes to these subdivisions;

(3)–(4) makes nonsubstantive changes to these subdivisions; and

(5) deletes this subdivision and existing text relating to adopting an official seal.

(b) Authorizes the executive council, rather than the professional counseling board, to request and requires that the council receive the assistance of a state educational institution or other state agency.

SECTION 2.062. Amends Subchapter E, Chapter 503, Occupations Code, by adding Section 503.2015, as follows:

Sec. 503.2015. BOARD DUTIES. Requires the professional counseling board to 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;

(B) the scope of practice of and standards of care and ethical practice for professional counseling; and

(C) continuing education requirements for license holders; and

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

SECTION 2.063. Amends Section 503.302, Occupations Code, as follows:

Sec. 503.302. QUALIFICATIONS FOR LICENSE. (a) Provides that a person qualifies for a license under this chapter if the person:

(1)–(2) makes no changes to these subdivisions;

(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, rather than professional counseling board, rule, which is prohibited from being less than 48 hours and is required to include 300 clock hours of supervised practicum that:

(A) makes no changes to this paragraph; and

(B) makes a conforming change to this paragraph;

(4) makes conforming changes to this subdivision;

(5) deletes existing text providing an exception under Subsection (b) to the requirement that a person passes the license examination and jurisprudence examination required by this chapter;

(6)–(7) makes conforming changes to these subdivisions.

(b) Redesignates existing Subsection (d) as this subsection and makes a conforming change.

(c) Redesignates existing Subsection (e) as this subsection and makes a conforming change.

SECTION 2.064. Amends Subchapter G, Chapter 503, Occupations Code, by adding Section 503.3025, as follows:

Sec. 503.3025. EXPERIENCE REQUIRED TO ACT AS SUPERVISOR. Requires the executive council to allow a license holder who has practiced as a licensed counselor in another state to count that out-of-state experience toward any experience that the license holder is required by executive council rule to obtain to act as a supervisor under this chapter if the executive council determines that the other state has license requirements substantially equivalent to the requirements of this chapter.

SECTION 2.065. Amends Section 503.303(b), Occupations Code, as follows:

(b) Requires the executive council, rather than the professional counseling board, to accept an individual course from an art therapy program accredited through the American Art Therapy Association as satisfying the education requirements under Section 503.302(a)(3) if at least 75 percent of the course content is substantially equivalent to the content of a course required by executive council rule, rather than professional counseling board rule.

SECTION 2.066. Amends Section 503.304, Occupations Code, as follows:

Sec. 503.304. REVIEW OF APPLICATION. Requires the executive council, rather than the professional counseling board, not later than the 30th day before the examination date, after investigation of a license application and review of other evidence submitted, to notify the applicant that the application and evidence submitted are satisfactory and accepted or unsatisfactory and rejected.

(b) Makes conforming changes to this subsection.

SECTION 2.067. Amends Section 503.305, Occupations Code, as follows:

Sec. 503.305. LICENSE EXAMINATION. (a) Requires the executive council, rather than the professional counseling board, to administer examinations to determine the competence of qualified applicants at least twice each calendar year.

(b) Requires the executive council, rather than the professional counseling board, to contract with a nationally recognized testing organization to develop and administer a written professional counselor licensing examination to applicants who apply for a license under this chapter.

SECTION 2.068. Amends Section 503.3055, Occupations Code, as follows:

Sec. 503.3055. JURISPRUDENCE EXAMINATION. (a) Requires the professional counseling board to develop a jurisprudence examination to determine an applicant's knowledge of this chapter, executive council rules, and any other applicable laws of this state affecting the applicant's professional counseling practice, rather than requiring the professional counseling board to develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, professional counseling board rules, and any other applicable laws of this state affecting the applicant's professional counseling practice. Requires the executive council to administer the examination at least twice each calendar year.

(b) Requires the executive council, rather than the professional counseling board, to 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 2.069. Amends Section 503.308, Occupations Code, as follows:

Sec. 503.308. TEMPORARY LICENSE. (a) Authorizes the executive council, rather than the professional counseling board, by rule to provide for the issuance of a temporary license.

(b) Authorizes the executive council, rather than the professional counseling board, by rule to adopt a system under which a temporary license may be issued to a person who:

(1) makes no changes to this subdivision; and

(2) enters into a supervisory agreement with a supervisor approved by the executive council, rather than approved by the professional counseling board.

SECTION 2.070. Amends Sections 503.310(a), (c), and (d), Occupations Code, as follows:

(a) Authorizes the executive council, rather than the professional counseling board, on application and payment of applicable fees, to 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, rather than to the professional counseling board.

(c) Provides that an applicant is not required to comply with Subsection (b)(3) if the executive council, rather than the professional counseling board, determines that compliance with that subsection is a hardship to the applicant.

(d) Provides that a provisional license is valid until the date the executive council, rather than the professional counseling board, approves or denies the provisional license holder's application for a license under Section 503.311.

SECTION 2.071. Amends Section 503.311, Occupations Code, as follows:

Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER. (a) Requires the executive council, rather than the professional counseling board, to issue a license to the holder of a provisional license who applies for a license if:

(1) makes a conforming change to this subdivision; and

(2) makes no changes to this subdivision.

(b) Requires the executive council, rather than the professional counseling board, to complete the processing of a provisional license holder's application for a license not later than the later of:

(1) makes no changes to this subdivision; or

(2) the date licenses are issued following completion of the next licensing and jurisprudence examinations, rather than following completion of the examination.

SECTION 2.072. Amends Sections 503.312(a) and (c), Occupations Code, as follows:

(a) Requires the executive council, rather than the professional counseling board, on request of a person licensed under this chapter, to place the person's license on inactive status.

(c) Makes conforming changes to this subsection.

SECTION 2.073. Amends Section 503.313, Occupations Code, as follows:

Sec. 503.313. RETIREMENT STATUS. Authorizes the executive council, rather than the professional counseling board, by rule to adopt a system for placing a person licensed under this chapter on retirement status.

SECTION 2.074. Amends Section 503.314(b), Occupations Code, as follows:

(b) Provides that a license certificate issued by the executive council is the property of the executive council, rather than providing that a license certificate issued by the professional counseling board is the property of the professional counseling board, and must be surrendered on demand.

SECTION 2.075. Amends Section 503.351, Occupations Code, as follows:

Sec. 503.351. RENEWAL; ELIGIBILITY. Provides that a person licensed under this chapter may renew the license biennially if the person:

(1) makes no changes to this subdivision; and

(2) fulfills the continuing education requirements established by the executive council, rather than the professional counseling board.

SECTION 2.076. Amends Section 503.352, Occupations Code, as follows:

Sec. 503.352. LICENSE EXPIRATION DATE. Requires the executive council, rather than the professional counseling board, to adopt a system under which licenses expire on certain dates during the year.

SECTION 2.077. Amends Section 503.353, Occupations Code, as follows:

Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Requires the executive council, rather than the professional counseling board, not later than the 30th day before the expiration date of a person's license, to send written notice of the impending license expiration to the person at the person's last known address according to the executive council's records, rather than the professional counseling board's records.

SECTION 2.078. Amends the heading to Subchapter I, Chapter 503, Occupations Code, to read as follows:

SUBCHAPTER I. DISCIPLINARY ACTIONS

SECTION 2.079. Amends Section 503.401(a), Occupations Code, as follows:

(a) Provides that a person licensed under this chapter is subject to disciplinary action under Subchapter G, Chapter 507, rather than under this section, if the person:

(1) violates this chapter or a rule or code of ethics adopted under this chapter, rather than adopted by the professional counseling board; and

(2)–(4) makes no changes to these subdivisions.

SECTION 2.080. Amends Section 503.407, Occupations Code, as follows:

Sec. 503.407. REFUND. (a) Authorizes the executive council, rather than the professional counseling board, subject to Subsection (b), to 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 Subchapter H, Chapter 507, rather than under this chapter.

(b) Makes a conforming change to this subsection.

SECTION 2.081. Amends Section 503.453, Occupations Code, as follows:

Sec. 503.453. REPORT OF ALLEGED OFFENSE. Requires the executive council, rather than the professional counseling board, to notify the appropriate prosecuting attorney of an alleged offense committed under this chapter.

SECTION 2.082. Amends Section 505.002, Occupations Code, as follows:

Sec. 505.002. DEFINITIONS. Provides that, in this chapter:

(1) Redesignates existing Subdivision (2) as this subdivision and makes no further changes.

(2) Redesignates existing Subdivision (3) as this subdivision and defines "council on social work education" as 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, rather than approved by TSBSWE.

(3) Defines "executive council."

(4) Redesignates existing Subdivision (4-a) as this subdivision, deletes existing text defining "department," and defines "licensed baccalaureate social worker" as a person who holds a baccalaureate social worker license issued under this chapter, rather than issued by TSBSWE under this chapter.

(5) Redesignates existing Subdivision (4-b) as this subdivision and redefines "licensed clinical social worker."

(6) Redesignates existing Subdivision (5) as this subdivision and redefines "licensed master social worker."

(7) Redesignates existing Subdivision (6) as this subdivision and redefines "licensed social worker."

(8) Redesignates existing Subdivision (9) as this subdivision and redefines "social worker."

SECTION 2.083. Amends Section 505.102(b), Occupations Code, as follows:

(b) Provides that a person is not eligible for appointment as a public member of TSBSWE if:

(1)–(2) makes no changes to these subdivisions; or

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

(A) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from TSBSWE or the executive council, rather than from TSBSWE or DSHS;

(B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from TSBSWE or the executive council rather than from TSBSWE or DSHS; or

(C) uses or receives a substantial amount of tangible goods, services, or funds from TSBSWE or the executive council, rather than from TSBSWE or DSHS, other than compensation or reimbursement authorized by law for professional counseling board membership, attendance, or expenses.

SECTION 2.084. Amends the heading to Section 505.103, Occupations Code, to read as follows:

Sec. 505.103. MEMBERSHIP RESTRICTIONS.

SECTION 2.085. Amends Sections 505.103(b) and (c), Occupations Code, as follows:

(b) Prohibits a person from being a member of TSBSWE if the person fits certain criteria.

Deletes existing text prohibiting a person from being a DSHS 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 the person first certain criteria.

(c) Deletes existing text prohibiting a person from acting as the general counsel to TSBSWE or DSHS 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 TSBSWE.

SECTION 2.086. Amends Section 505.109, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires the training program to provide the person with information regarding:

(1) the law governing TSBSWE operations, rather than the legislation that created TSBSWE;

(2) the programs, functions, rules, and budget of TSBSWE;

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

(4) the types of TSBSWE rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices

charged by persons engaged in a profession or business TSBSWE regulates, including any rule, interpretation or enforcement action that takes certain enumerated actions;

(5) redesignates existing Subdivision (2) as this subdivision and makes no further changes;

(6) redesignates existing Subdivision (3) as this subdivision. Requires the training to provide information regarding the requirements of:

(A) creates this paragraph from existing Subdivision (3) and specifies disclosure of conflicts of interest, rather than conflicts-of-interest; and

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

(7) redesignates existing Subdivision (4) as this subdivision and makes no further changes.

Makes nonsubstantive changes throughout Subsection (b).

(d) Requires the executive director of the executive council to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each TSBSWE member. Requires each TSBSWE member, on receipt of the training manual, to sign and submit to the executive director a statement acknowledging that the member received and has reviewed of the training manual.

SECTION 2.087. Amends Section 505.201, Government Code, as follows:

Sec. 505.201. New heading: GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY OF EXECUTIVE COUNCIL. (a) Authorizes the executive council, rather than TSBSWE, to:

(1) adopt and enforce rules necessary to perform the executive council's, rather than TSBSWE's, duties under this chapter; and

(2)–(3) makes no changes to these subdivisions.

(b) Redesignates existing Subsection (c) as this subsection and authorizes the executive council, rather than TSBSWE, by rule to define a term not defined under Section 505.002 if a definition is necessary to administer or enforce this chapter. Deletes existing text requiring TSBSWE to consider the rules and procedures of DSHS in adopting rules under this section. Deletes existing text requiring TSBSWE to adopt procedural rules, which are prohibited from being inconsistent with similar rules and procedures of DSHS.

(c) Redesignates existing Subsection (e) as this subsection and requires the executive council, rather than TSBSWE, to establish for each type of license issued under this chapter certain requirements.

(d) Redesignates existing Subsection (f) as this subsection and requires the executive council, rather than TSBSWE, to establish procedures for recognition of independent practice.

SECTION 2.088. Amends Subchapter D, Chapter 505, Occupations Code, by adding Section 505.2015, as follows:

Sec. 505.2015. BOARD DUTIES. Requires TSBSWE to propose to the executive council:

(1) rules regarding:

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

(B) the scope of practice of and standards of care and ethical practice for social work; and

(C) continuing education requirements for license holders or holders of orders of recognition of specialty; and

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

SECTION 2.089. Amends Section 505.206, Occupations Code, as follows:

Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. Requires the executive council, rather than TSBSWE, to publish a roster of persons recognized under Section 505.307 as qualified for the independent practice of social work.

SECTION 2.090. Amends Section 505.301, Occupations Code, as follows:

Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) Authorizes the executive council, rather than TSBSWE, to establish within the scope of social work practice and this chapter specialty areas of social work for license holders under this chapter who are licensed in good standing if establishment of the specialty areas fits certain criteria.

(b) Prohibits the executive council from authorizing a specialty area within the practice of social work unless the executive council sets the minimum qualifications for social work practice with appropriate supervision and examination, as determined by the executive council, rather than prohibiting TSBSWE from authorizing a specialty area within the practice of social work unless TSBSWE sets the minimum qualifications for social work practice with appropriate supervision and examination, as determined by TSBSWE.

(c) Prohibits the executive council, rather than TSBSWE, from establishing a specialty area of social work or a specialty area identification that conflicts with a state licensing law.

SECTION 2.091. Amends Section 505.302(a), Occupations Code, as follows:

(a) Requires the executive council, rather than TSBSWE, in establishing a specialty area of social work, to take certain enumerated actions.

SECTION 2.092. Amends Sections 505.303(a) and (c), Occupations Code, as follows:

(a) Requires the executive council, rather than TSBSWE, to establish a specialty area for the practice of clinical social work that is available only to a licensed master social worker who satisfies the minimum number of years of active social work practice with appropriate supervision and clinical examination, as determined by the executive council, rather than by TSBSWE.

(c) Provides that, for purposes of Subchapter C, Chapter 1451, Insurance Code:

(1) a person recognized as qualified for the independent practice of clinical social work may use the title "Licensed Clinical Social Worker" or another title approved by the executive council, rather than TSBSWE; and

(2) a title approved by the executive council, rather than a TSBSWE-approved title, under this subsection has the same meaning and effect as the title "Licensed Clinical Social Worker."

SECTION 2.093. Amends Section 505.304, Occupations Code, as follows:

Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) Requires the executive council, rather than TSBSWE, to prescribe the name, design, and content of an order of recognition of specialty.

(b) Requires an order of specialty to:

(1)–(2) makes nonsubstantive changes to these subdivisions; and

(3)–(4) Deletes these subdivisions and existing text relating to the presiding officer's signature and TSBSWE's official seal.

SECTION 2.094. Amends Section 505.305, Occupations Code, as follows:

Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER. (a) Requires the executive council, rather than TSBSWE, to 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, rather than TSBSWE, and the executive council, rather than TSBSWE, determines that the person is worthy of the public trust in performing services within the scope of the specialty area.

(b) Requires the executive council, rather than TSBSWE, to 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. Provides that 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, rather than designated by TSBSWE.

SECTION 2.095. Amends Section 505.306, Occupations Code, as follows:

Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA IDENTIFICATION OR TITLE. Provides that if the executive council, rather than TSBSWE, establishes a specialty area of social work, a social worker is prohibited from using the specialty area identification or title designated by the executive council, rather than designated by TSBSWE, unless the person is recognized as qualified for the practice of the specialty area under this chapter.

SECTION 2.096. Amends Section 505.307, Occupations Code, as follows:

Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM QUALIFICATIONS. (a) Requires the executive council, rather than TSBSWE, to establish procedures for recognizing a social worker qualified for the independent practice of social work.

(b) Makes a conforming change to this subsection.

SECTION 2.097. Amends Section 505.352, Occupations Code, as follows:

Sec. 505.352. LICENSE APPLICATION. Authorizes a person to apply for a license under this chapter by submitting an application to the executive council, rather than to TSBSWE. Requires the application to:

(1)–(2) makes conforming changes to these subdivisions.

SECTION 2.098. Amends Section 505.353, Occupations Code, as follows:

Sec. 505.353. ELIGIBILITY. Requires an applicant, to be eligible for a license under this chapter, to:

(1)–(3) makes no changes to these subdivisions; and

(4) pass the licensing examination conducted by the executive council under Section 505.354 and the jurisprudence examination conducted by the executive council under Section 505.3545, rather than the licensing examination conducted by TSBSWE under Section 505.354 and the jurisprudence examination conducted by TSBSWE under Section 505.3545.

(b) Makes conforming changes to this subsection.

(c) Authorizes the executive council, rather than TSBSWE, to require an applicant to submit documentary evidence of the quality, scope, and nature of the applicant's experience and competence to take certain enumerated actions.

SECTION 2.099. Amends Sections 505.354(a), (b), and (e), Occupations Code, to make conforming and nonsubstantive changes.

SECTION 2.100. Amends Section 505.3545, Occupations Code, as follows:

Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) Requires TSBSWE to develop a jurisprudence examination to determine the applicant's knowledge of rules adopted under this chapter, and any other applicable laws of this state affecting the applicant's social work practices, rather than requiring TSBSWE to develop and administer at least twice a year a jurisprudence examination to determine the applicant's knowledge of TSBSWE rules adopted under this chapter, and any other applicable laws of this state affecting the applicant's social work practices. Requires the executive council to administer the examination at least twice each calendar year.

(b) Requires the executive council, rather than TSBSWE, to 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 2.101. Amends Section 505.357(a), Occupations Code, as follows:

(a) Requires the executive council, rather than TSBSWE, to issue a temporary license to an applicant who:

(1)–(2) makes no changes to these subdivisions.

SECTION 2.102. Amends Section 505.3575, Occupations Code, as follows:

Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE APPLICANTS. (a) Provides that, notwithstanding any other licensing requirement of this subchapter:

(1) the executive council, rather than TSBSWE, is prohibited from requiring an applicant who is licensed in good standing in another state to pass a licensing examination conducted by the executive council, rather than by TSBSWE, under Section 505.354 if an applicant with substantially equivalent experience who resides in this state would not be required to take the licensing examination; and

(2) the executive council, rather than TSBSWE, is authorized to issue a license to an applicant who is currently licensed in another state to independently practice social work if:

(A)–(B) makes conforming changes.

(b) Makes conforming changes.

SECTION 2.103. Amends Section 505.358, Occupations Code, as follows:

Sec. 505.358. PROVISIONAL LICENSE. (a) Provides that a person is authorized to apply for a provisional license as a social worker by paying the appropriate fee and filing an application with the executive council, rather than with TSBSWE. Authorizes the executive council, rather than TSBSWE, to issue a provisional license to a person who meets the requirements of this section.

(b) Requires an applicant for a provisional license to:

(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 to be substantially equivalent to the requirements of this chapter, rather than be licensed or certified in good standing as a social worker in another state that has licensing or certification requirements determined by TSBSWE to be substantially equivalent to the requirements of this chapter;

(2) makes a conforming change; and

(3) makes no changes to this subdivision.

(c) Provides that an applicant is not required to comply with Subsection (b)(3) if the executive council, rather than TSBSWE, determines that compliance constitutes a hardship to the applicant.

(d) Makes a conforming change.

SECTION 2.104. Amends Section 505.359, Occupations Code, as follows:

Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER. (a) Requires the executive council, rather than TSBSWE, to issue an appropriate license to a provisional license holder:

(1) makes no changes to this subdivision;

(2) makes a conforming change; and

(3) makes no changes to this subdivision.

(b) Requires the executive council, rather than TSBSWE, to complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued or the date licenses are issued after successful completion of the next licensing and jurisprudence examinations, whichever date is later.

(c) Authorizes the executive council, rather than TSBSWE, to waive a license requirement for an applicant who is licensed or certified in another state if this state has entered into a reciprocity agreement with that state.

SECTION 2.105. Amends Section 505.401(a-1), Occupations Code, to require the executive council, rather than TSBSWE, by rule to adopt a system under which licenses and orders of recognition of specialty expire on certain dates during the year.

SECTION 2.106. Amends Section 505.405, Occupations Code, as follows:

Sec. 505.405. GROUND FOR REFUSING RENEWAL. Authorizes the executive council, rather than TSBSWE, to refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter H, Chapter 507, rather than under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.107. Amends the heading to Subchapter I, Chapter 505, Occupations Code, to read as follows:

SUBCHAPTER I. DISCIPLINARY ACTION

SECTION 2.108. Amends Section 505.451, Occupations Code, as follows:

Sec. 505.451. New heading: GROUND FOR DISCIPLINARY ACTION. Requires the executive council to take disciplinary action under Subchapter G, Chapter 507, against a person for:

- (1)–(3) makes conforming changes;
- (4)–(6) makes no changes to these subdivisions;
- (7) makes a conforming change;
- (8)–(9) makes no changes to these subdivisions;
- (10)–(11) makes conforming changes; and
- (12)–(14) makes no changes to these subdivisions.

Deletes existing text requiring TSBSWE to deny an application for a license or order of recognition of specialty and to revoke or suspend, including a suspension on an emergency basis, a license or order, place a holder of a license or order that has been suspended on probation, refuse to renew a person's license, or reprimand a holder of a license or order for certain actions.

SECTION 2.109. Amends Section 505.454(a), Occupations Code, as follows:

(a) Provides that a person who holds an expired license or order of recognition of specialty under this chapter is subject to a sanction under this chapter if the executive council, rather than TSBSWE, determines that the person violated this chapter or a rule adopted under this chapter, rather than a rule adopted by TSBSWE, during the period in which the license or order was valid.

SECTION 2.110. Amends Section 505.458, Occupations Code, as follows:

Sec. 505.458. REFUND. Authorizes the executive council, rather than TSBSWE, subject to Subsection (b), to 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) Prohibits the executive council, rather than TSBSWE, from requiring payment of other damages or estimating harm in a refund order.

SECTION 2.111. Amends Section 505.505, Occupations Code, as follows:

Sec. 505.505. APPEAL BOND NOT REQUIRED. Provides that the executive council, rather than TSBSWE, is not required to post an appeal bond in any action arising under this chapter.

SECTION 2.112. Amends Section 505.506, Occupations Code, as follows:

Sec. 505.506. REPRESENTATION BY ATTORNEY GENERAL. Requires the attorney general to represent the executive council, rather than represent TSBSWE or DSHS, in an action brought to enforce this chapter.

SECTION 2.113. (1) Repealer: Section 501.002(3) (relating to the definition of "provisional license holder"), Occupations Code;

(2) Repealer: Section 501.005 (Application of Sunset Act), Occupations Code;

(3) Repealer: Subchapter C (Executive Director and Other Board Personnel), Chapter 501, Occupations Code;

(4) Repealer: Sections 501.151(a) (relating to authorizing TSBEP to adopt rules necessary to perform its duties and regulate its proceedings) and 501.151(b) (relating to requiring TSBEP to adopt an official seal), Occupations Code;

(5) Repealer: Section 501.152 (Fees), Occupations Code;

(6) Repealer: Section 501.154 (Annual Listing), Occupations Code;

(7) Repealer: Section 501.156 (Rules Restricting Advertising or Competitive Bidding), Occupations Code;

(8) Repealer: Section 501.157 (Board Duties Regarding Complaints), Occupations Code;

(9) Repealer: Section 501.160 (Use of Technology), Occupations Code;

(10) Repealer: Section 501.161 (Negotiated Rulemaking and Alternative Dispute Resolution), Occupations Code;

(11) Repealer: Section 501.162 (Development of Proposed Rules), Occupations Code;

(12) Repealer: Subchapter E (Public Interest Information and Complaint Procedures), Chapter 501, Occupations Code;

(13) Repealer: Sections 501.252(b) (relating to the conditions required for a person to be licensed as a psychologist), 501.252(c) (relating to the criteria for establishing experience as supervised), and 501.252(d) (relating to the determination of the acceptability of an applicant's professional experience), Occupations Code;

(14) Repealer: Section 501.254 (Provisional License Application), Occupations Code;

(15) Repealer: Sections 501.256(e) (relating to providing analysis of a person's performance when they fail an examination under this chapter), 501.256(f) (relating to authorized assessments from an oral examination under this chapter), and 501.256(g) (relating to a requirement that TSBEP by rule clearly define the standards used to evaluate the oral examination), Occupations Code;

(16) Repealer: Section 501.2561 (Evaluation of Oral Examination), Occupations Code;

(17) Repealer: Section 501.257 (Reexamination), Occupations Code;

- (18) Repealer: Section 501.258 (Notification of Examination Results), Occupations Code;
- (19) Repealer: Section 501.261(b) (relating to requiring the presiding officer and executive director of TSBEP to sign a license under the seal of TSBEP), Occupations Code;
- (20) Repealer: Section 501.302 (License Renewal), Occupations Code;
- (21) Repealer: Section 501.303 (Renewal of Expired License by Out-of-State Practitioner), Occupations Code;
- (22) Repealer: Section 501.304 (Continuing Education), Occupations Code;
- (23) Repealer: Section 501.402 (Temporary License Suspension), Occupations Code;
- (24) Repealer: Section 501.403 (Hearing), Occupations Code;
- (25) Repealer: Section 501.404 (Schedule of Sanctions), Occupations Code;
- (26) Repealer: Section 501.405 (Appeal), Occupations Code;
- (27) Repealer: Section 501.406 (Probation), Occupations Code;
- (28) Repealer: Section 501.409 (Administrative Procedure), Occupations Code;
- (29) Repealer: Section 501.410 (Rules Governing Informal Proceedings), Occupations Code;
- (30) Repealer: Subchapter J (Administrative Penalty), Chapter 501, Occupations Code;
- (31) Repealer: Section 501.501 (Injunctive Relief), Occupations Code;
- (32) Repealer: Section 501.502 (Civil Penalty), Occupations Code;
- (33) Repealer: Section 501.504 (Monitoring of License Holder), Occupations Code;
- (34) Repealer: Section 502.002(3) (relating to the definition of "department"), Occupations Code;
- (35) Repealer: Section 502.003 (Application of Sunset Act), Occupations Code;
- (36) Repealer: Subchapter C (Executive Director and Other Board Personnel), Chapter 502, Occupations Code;
- (37) Repealer: Section 502.152 (Rules Regarding Board Procedures), Occupations Code;
- (38) Repealer: Section 502.153 (Fees), Occupations Code;
- (39) Repealer: Section 502.154 (Expenditure of Funds), Occupations Code;
- (40) Repealer: Section 502.156 (Rules Restricting Advertising or Competitive Bidding), Occupations Code;
- (41) Repealer: Section 502.1565 (Rules on Consequences of Criminal Conviction), Occupations Code;
- (42) Repealer: Section 502.157 (Annual Registry), Occupations Code;

- (43) Repealer: Section 502.158 (Board Duties Regarding Complaints), Occupations Code;
- (44) Repealer: Section 502.161 (Board Committees), Occupations Code;
- (45) Repealer: Section 502.162 (Use of Technology), Occupations Code;
- (46) Repealer: Section 502.163 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code;
- (47) Repealer: Subchapter E (Public Interest Information and Complaint Procedures), Chapter 502, Occupations Code;
- (48) Repealer: Section 502.255 (Examination Results), Occupations Code;
- (49) Repealer: Section 502.256 (Reexamination), Occupations Code;
- (50) Repealer: Sections 502.301(b) (relating to a requirement that BMFT notify each license holder in writing of a pending license expiration), 502.301(c) (relating to the authorization of a license holder renewing an unexpired license by paying BMFT before the license expires), 502.301(d) (relating to the fees for renewing an expired license), and 502.301(e) (relating to a prohibition of a person whose license has been expired for one year or more from renewing a license), Occupations Code;
- (51) Repealer: Section 502.302 (Renewal of Expired License by Out-of-State Practitioner), Occupations Code;
- (52) Repealer: Section 502.303 (Continuing Education), Occupations Code;
- (53) Repealer: Section 502.352 (Probation), Occupations Code;
- (54) Repealer: Section 502.353 (Informal Proceedings), Occupations Code;
- (55) Repealer: Section 502.354 (Hearing), Occupations Code;
- (56) Repealer: Section 502.355 (Sanctions), Occupations Code;
- (57) Repealer: Section 502.356 (Emergency Suspension), Occupations Code;
- (58) Repealer: Subchapter I (Administrative Penalty), Chapter 502, Occupations Code;
- (59) Repealer: Section 502.451 (Injunction), Occupations Code;
- (60) Repealer: Section 502.452 (Monitoring of License Holder), Occupations Code;
- (61) Repealer: Section 502.453 (Civil Penalty), Occupations Code;
- (62) Repealer: Section 502.455 (Cease and Desist Order), Occupations Code;
- (63) Repealer: Section 503.005 (Application of Sunset Act), Occupations Code;
- (64) Repealer: Subchapter D (Executive Director and Other Board Personnel), Chapter 503, Occupations Code;
- (65) Repealer: Section 503.202 (Fees), Occupations Code;
- (66) Repealer: Section 503.203 (General Rulemaking Authority), Occupations Code;
- (67) Repealer: Section 503.204 (Rules Restricting Advertising or Competitive Bidding), Occupations Code;

- (68) Repealer: Section 503.2045 (Rules on Consequences of Criminal Conviction), Occupations Code;
- (69) Repealer: Section 503.205 (Delegation to Committee), Occupations Code;
- (70) Repealer: Section 503.207 (License Holder Registry), Occupations Code;
- (71) Repealer: Section 503.209 (Board Duties Regarding Complaints), Occupations Code;
- (72) Repealer: Section 503.210 (Use of Technology), Occupations Code;
- (73) Repealer: Section 503.211 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code;
- (74) Repealer: Subchapter F (Public Interest Information and Complaint Procedures), Chapter 503, Occupations Code;
- (75) Repealer: Section 503.306 (Examination Results), Occupations Code;
- (76) Repealer: Section 503.307 (Reexamination), Occupations Code;
- (77) Repealer: Section 503.354 (Procedure for Renewal), Occupations Code;
- (78) Repealer: Section 503.355 (Renewal of Expired License by Out-of-State Practitioner), Occupations Code;
- (79) Repealer: Section 503.356 (Continuing Education), Occupations Code;
- (80) Repealer: Section 503.401(b) (relating to the available penalties the professional counseling board is required to use for disciplinary action), 503.401(c) (relating to authorized professional counseling board actions when a license suspension is probated), and 503.401(d) (relating to a license holder being entitled to a hearing conducted by the State Office of Administrative Hearings before a sanction is imposed under this section), Occupations Code;
- (81) Repealer: Section 503.402 (Schedule of Sanctions), Occupations Code;
- (82) Repealer: Section 503.403 (Temporary License Suspension), Occupations Code;
- (83) Repealer: Section 503.404 (Informal Procedures), Occupations Code;
- (84) Repealer: Section 503.405 (Monitoring of License Holder), Occupations Code;
- (85) Repealer: Section 503.406 (Application of Administrative Procedure Law), Occupations Code;
- (86) Repealer: Section 503.451 (Injunction), Occupations Code;
- (87) Repealer: Section 503.454 (Cease and Desist Order), Occupations Code;
- (88) Repealer: Subchapter K (Administrative Penalty), Chapter 503, Occupations Code;
- (89) Repealer: Section 505.005 (Application of Sunset Act), Occupations Code;
- (90) Repealer: Section 505.110 (Board Committees), Occupations Code;
- (91) Repealer: Subchapter C (Executive Director and Personnel), Chapter 505, Occupations Code;

- (92) Repealer: Section 505.202 (Rules Restricting Advertising or Competitive Bidding), Occupations Code;
- (93) Repealer: Section 505.203 (Fees), Occupations Code;
- (94) Repealer: Section 505.204 (Board Duties Regarding Complaints), Occupations Code;
- (95) Repealer: Section 505.205 (Roster of License Holders), Occupations Code;
- (96) Repealer: Section 505.209 (Rules on Consequences of Criminal Conviction), Occupations Code;
- (97) Repealer: Section 505.210 (Use of Technology), Occupations Code;
- (98) Repealer: Section 505.211 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code;
- (99) Repealer: Subchapter E (Public Access Information and Complaint Procedures), Chapter 505, Occupations Code;
- (100) Repealer: Section 505.355 (Examination Results), Occupations Code;
- (101) Repealer: Section 505.356 (Reexamination), Occupations Code;
- (102) Repealer: Section 505.402 (Renewal of License and Order of Recognition of Specialty), Occupations Code;
- (103) Repealer: Section 505.403 (Renewal of Expired License by Out-of-State Practitioner), Occupations Code;
- (104) Repealer: Section 505.404 (Continuing Education), Occupations Code;
- (105) Repealer: Section 505.452 (Conditions of Probation), Occupations Code;
- (106) Repealer: Section 505.453 (Emergency Suspension), Occupations Code;
- (107) Repealer: Section 505.454(b) (relating to the application of certain sections to a disciplinary proceeding against a person under this section), Occupations Code;
- (108) Repealer: Section 505.455 (Procedure; Hearing), Occupations Code;
- (109) Repealer: Section 505.456 (Schedule of Sanctions), Occupations Code;
- (110) Repealer: Section 505.457 (Informal Procedures), Occupations Code;
- (111) Repealer: Section 505.501 (Monitoring of License Holder), Occupations Code;
- (112) Repealer: Section 505.503 (Injunction), Occupations Code;
- (113) Repealer: Section 505.504 (Civil Penalty), Occupations Code;
- (114) Repealer: Section 505.508 (Cease and Desist Order), Occupations Code; and
- (115) Repealer: Subchapter K (Administrative Penalty), Chapter 505, Occupations Code.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.001. Amends Article 66.104(a), Code of Criminal Procedure, as follows:

(a) Includes the Texas Department of Licensing and Regulation (TDLR), and deletes the Texas Board of Podiatric Examiners (podiatric board) and TSBEP, only with respect to a person licensed under Chapter 202 (Podiatrists), Occupations Code, and the Texas Behavioral Health Executive Council, only with respect to a person licensed under Chapter 501, Occupations Code, among the agencies required to provide the Texas Department of Public Safety (DPS) with a list of each person licensed by the respective agency, including certain information and by certain means.

SECTION 3.002. Amends Section 411.122(d), Government Code, as follows:

(d) Provides that the following state agencies are subject to this section:

(1)–(7) makes no changes to these subdivisions;

(8) HHSC, except as provided by Section 411.110, and agencies attached to the Public Safety Commission, rather than DSHS, except as provided by Section 411.110, and agencies attached to DPS, including;

(A)–(C) Deletes these paragraphs and existing text including BMFT, the professional counseling board, and TSBSWE;

(9)–(16) makes no changes to these subdivisions; and

(17) the executive council. Redesignates existing Subdivision (18) as this subdivision, deletes existing text including the podiatric board and TSBEP, and renumbers subsequent subdivisions accordingly.

SECTION 3.003. Amends Section 2054.2606(a), Government Code, as follows:

(a) Requires the following licensing entities to establish a profile system consisting of the specific license holder information prescribed by Subsection (c):

(1) makes no changes to this subdivision;

(2) TDLR, rather than the podiatric board, with respect to podiatrists;

(3)–(6) makes no changes to these subdivisions;

(7) executive council, rather than TSBEP, with respect to psychologists; and

(8) makes no changes to this subdivision.

SECTION 3.004. Amends Section 2054.352(a), Government Code, as follows:

(a) Requires the following licensing entities to participate in the system established under Section 2054.353 (Electronic System for Occupational Licensing Transactions):

(1)–(12) makes no changes to these subdivisions;

(13) the executive council. Redesignates existing Subdivision (14) as this subdivision, deletes existing text including the podiatric board and TSBEP, and renumbers subsequent subdivisions accordingly;

(14)–(20) makes no changes to these subdivisions;

(21) HHSC, rather than DSHS; and

(22)–(25) makes no changes to these subdivisions.

SECTION 3.005. Amends Section 36.132(a)(2), Human Resources Code, as follows:

(2) Defines "licensing authority" as:

(A)-(B) makes no changes to these paragraphs;

(C) the executive council, rather than TSBEP;

(D) redesignates existing Paragraph (E) as this paragraph, deletes existing text including TSBSWE, and renumbers subsequent paragraphs accordingly;

(E)-(G) makes no changes to these paragraphs.

SECTION 3.006. Amends Sections 1451.001(9)–(11), (18)–(19), Insurance Code, as follows:

(9) Redefines "licensed clinical social worker" as an individual licensed as a clinical social worker under Chapter 505, Occupations Code, rather than licensed by TSBSWE as a clinical social worker.

(10) Redefines "licensed professional counselor" as an individual licensed under Chapter 503, Occupations Code, rather than licensed by the professional counseling board.

(11) Redefines "marriage and family therapist" as an individual licensed under Chapter 502, Occupations Code, rather than licensed by BMFT.

(18) Redefines "psychological associate" as an individual licensed as a psychological associate by the executive council, rather than licensed by TSBEP and who practices solely under the supervision of a licensed psychologist.

(19) Redefines "psychologist" as an individual licensed as a psychologist by the executive council, rather than licensed by TSBEP.

SECTION 3.007. Amends Section 101.002, Occupations Code, as follows:

Section. 101.002. COMPOSITION OF COUNCIL. Provides that the Health Professions Council (HPC) consists of 13 members, rather than 14 members, with one member appointed by each of the following:

(1)–(4) makes no changes to these subdivisions;

(5) deletes existing text for Subdivision (5) related to the podiatric board, replaces it with existing text from Subdivision (6), and renumbers subdivisions accordingly;

(6)–(7) makes no changes to these subdivisions;

(8) the executive council, rather than TSBEP;

(9)–(11) makes no changes to these subdivisions;

(12) the health licensing division of HHSC, rather than of DSHS; and

(13) makes no changes to this subdivision.

SECTION 3.008. Amends Section 110.001(7), Occupations Code, as follows:

(7) Redefines "sex offender treatment provider" as a person, licensed by HHSC and recognized based on training and experience to provide assessment and

treatment to certain individuals and licensed in this state to practice as certain careers, including a licensed master social worker under a clinical supervision plan approved by the executive council, rather than approved by TSBSWE, who provides mental health or medical services for rehabilitation of sex offenders.

ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

SECTION 4.001. Defines, in this article, "executive council" and "transferring entity."

SECTION 4.002. (a) Provides that, except as provided by Subsection (b) of this section, Sections 501.059, 502.059, 503.110, and 505.109, Occupations Code, as amended by this Act, apply to a member of the applicable board appointed before, on, or after the effective date of this Act.

(b) Provides that a member of a board who, before the effective date of this Act, completed the training program required by Section 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 501.059, 502.059, 503.110, or 505.109, Occupations Code, as applicable. Prohibits a board member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2019, until the member completes the additional training.

SECTION 4.003. (a) Makes application of Section 501.2525, Occupations Code, as redesignated and amended by this Act, prospective.

(b) Provides that a provisional license issued under Section 501.253, Occupations Code, that is in effect on the effective date of this Act continues to be valid until the license expires.

(c) Makes application of Section 502.252, Occupations Code, as amended by this Act, prospective to the date on which rules adopted by the executive council under that section take effect.

SECTION 4.004. Requires, not later than August 31, 2020, an initial member of the executive council to complete the training required by Section 507.059, Occupations Code, as added by this Act. Prohibits a member of the executive council, on or after September 1, 2020, from voting, deliberating, or being counted as a member in attendance at a meeting of the executive council until the member has completed the training required by that section.

SECTION 4.005. (a) Requires, not later than December 1, 2019, the appropriate appointing authorities to appoint the members of the executive council as provided by Section 507.051, Occupations Code, as added by this Act.

(b) Requires TSBEP, BMFT, the professional counselors board, and TSBSWE, in making the initial appointments to the executive council, to each appoint one member to a term expiring February 1, 2021, and one member to a term expiring February 1, 2022, notwithstanding the terms established by Section 507.054, Occupations Code, as added by this Act.

SECTION 4.006. (a) Establishes the Texas Behavioral Health Incubation Task Force to assist in the establishment of and transfer of regulatory programs to the executive council under this Act by providing guidance to:

(1) the executive council regarding:

(A) hiring the executive director of the executive council;

(B) developing functional alignments within the organizational structure of the executive council;

(C) establishing any necessary accounts and reporting requirements; and

(D) seeking input from interested parties throughout the transfer; and

(2) the transferring entities and the executive council regarding the efficient transfer of necessary data, and the revision of existing rules to align with the administrative structure of the executive council.

(b) Provides that the task force is composed of:

(1) the executive commissioner of HHSC, or that executive commissioner's designee;

(2) the executive director of TDLR, or that executive director's designee;

(3) the executive director of TSBEP;

(4) a representative of BMFT;

(5) a representative of the professional counselors board; and

(6) a representative of TSBSWE.

(c) Authorizes the entities represented on the task force to adopt a memorandum of understanding to accomplish the responsibilities and duties of the task force and to ensure access by the entities of any systems and information necessary to effectively transfer the regulatory programs to the executive council under this Act.

SECTION 4.007. (a) Requires the executive council to hire an executive director for the executive council not later than April 1, 2020.

(b) Requires the executive council to adopt procedural rules necessary to implement Chapter 507, Occupations Code, as added by this Act, not later than July 31, 2020.

SECTION 4.008. (a) Requires the executive council and the transferring entities to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this Act as soon as practicable after the appointment of the members of the executive council. Requires the transition plan to provide for the transfer of each regulatory program to be completed on or before August 31, 2020.

(b) Requires the transferring entities to provide the executive council with access to any systems or information necessary for the executive council to accept a program transferred under this Act.

(c) Provides that on the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the executive council, all full-time equivalent employee positions at a transferring entity that primarily concern the administration or enforcement of the program being transferred become positions at the executive council. Requires the executive council to post the positions for hiring and, when filling the positions, the executive council is required to give consideration to, but is not required to hire, an applicant who, immediately before the date of the transfer, was an employee at a transferring entity primarily involved in administering or enforcing the transferred program.

SECTION 4.009. Provides that on the date specified in the transition plan required under Section 4.008(a) of this Act for the transfer of a particular program to the executive council:

(1) a rule or fee relating to a transferred program that is in effect on that date remains in effect until changed by the executive council;

(2) a license, registration, certification, or other authorization relating to a transferred program that is in effect on that date is continued in effect as a license, registration, certification, or other authorization of the executive council; and

(3) a complaint, investigation, contested case, or other proceeding relating to a transferred program that is pending before a transferring entity on that date is transferred without change in status to the executive council.

SECTION 4.010. Provides that Section 507.154, Occupations Code, as added by this Act, does not prohibit the appropriation of money to the executive council, as created by this Act, for the state fiscal year ending August 31, 2020.

SECTION 4.011. Provides that, to the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4.012. Effective date: September 1, 2019.