

SENATE AMENDMENTS

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H.B. No. 1501

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Texas Behavioral Health Executive
3 Council and to the continuation and transfer of the regulation of
4 psychologists, marriage and family therapists, professional
5 counselors, and social workers to the Texas Behavioral Health
6 Executive Council; providing civil and administrative penalties;
7 authorizing a fee.

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

9 ARTICLE 1. CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE
10 COUNCIL

11 SECTION 1.001. Subtitle I, Title 3, Occupations Code, is
12 amended by adding Chapter 507 to read as follows:

13 CHAPTER 507. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 507.001. DEFINITIONS. In this chapter:

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

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

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

23 (4) "Professional counseling board" means the Texas
24 State Board of Examiners of Professional Counselors.

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

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

5 Sec. 507.002. APPLICATION OF SUNSET ACT. The Texas
6 Behavioral Health Executive Council is subject to Chapter 325,
7 Government Code (Texas Sunset Act). Unless continued in existence
8 as provided by that chapter, the executive council is abolished and
9 this chapter and Chapters 501, 502, 503, and 505 expire September 1,
10 2031.

11 SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

12 Sec. 507.051. EXECUTIVE COUNCIL MEMBERSHIP. (a) The Texas
13 Behavioral Health Executive Council consists of nine members as
14 follows:

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

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

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

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

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

27 (b) Appointments to the executive council shall be made

1 without regard to the race, color, disability, sex, age, religion,
2 or national origin of the appointee.

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

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

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

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

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

1 Sec. 507.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

2 In this section, "Texas trade association" means a cooperative and
3 voluntarily joined statewide association of business or
4 professional competitors in this state designed to assist its
5 members and its industry or profession in dealing with mutual
6 business or professional problems and in promoting their common
7 interest.

8 (b) A person may not be a member of the executive council and
9 may not be an executive council employee employed in a "bona fide
10 executive, administrative, or professional capacity," as that
11 phrase is used for purposes of establishing an exemption to the
12 overtime provisions of the federal Fair Labor Standards Act of 1938
13 (29 U.S.C. Section 201 et seq.) if:

14 (1) the person is an officer, employee, or paid
15 consultant of a Texas trade association in the field of health care;
16 or

17 (2) the person's spouse is an officer, manager, or paid
18 consultant of a Texas trade association in the field of health care.

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

26 Sec. 507.054. TERMS; VACANCY. (a) The member appointed by
27 the governor serves a six-year term. The remaining members serve

1 two-year terms with the terms of four of those members expiring
2 February 1 of each year.

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

5 Sec. 507.055. PRESIDING OFFICER. The member appointed by
6 the governor is the presiding officer of the executive council.

7 Sec. 507.056. GROUNDS FOR REMOVAL. (a) It is a ground for
8 removal from the executive council that a member:

9 (1) does not have at the time of taking office the
10 qualifications required by Section 507.051;

11 (2) does not maintain during service on the executive
12 council the qualifications required by Section 507.051;

13 (3) is ineligible for membership under Section 507.052
14 or 507.053;

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

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

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

25 (c) If the executive director has knowledge that a potential
26 ground for removal exists, the executive director shall notify the
27 presiding officer of the executive council of the potential ground.

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

8 Sec. 507.057. REIMBURSEMENT. A member of the executive
9 council may receive reimbursement for travel expenses as provided
10 by the General Appropriations Act.

11 Sec. 507.058. MEETINGS. (a) The executive council shall
12 hold at least two regular meetings each year.

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

16 Sec. 507.059. TRAINING. (a) A person who is appointed to
17 and qualifies for office as a member of the executive council may
18 not vote, deliberate, or be counted as a member in attendance at a
19 meeting of the executive council until the person completes a
20 training program that complies with this section.

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

23 (1) the law governing executive council operations;

24 (2) the programs, functions, rules, and budget of the
25 executive council;

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

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

3 (5) the requirements of:

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

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

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

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

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

23 SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

24 Sec. 507.101. EXECUTIVE DIRECTOR; PERSONNEL. The executive
25 council shall employ an executive director and other personnel as
26 necessary to administer this chapter and carry out the functions of
27 the executive council.

1 Sec. 507.102. DIVISION OF RESPONSIBILITIES. The executive
2 council shall develop and implement policies that clearly separate
3 the policymaking responsibilities of the executive council and the
4 management responsibilities of the executive director and the staff
5 of the executive council.

6 Sec. 507.103. CAREER LADDER PROGRAM; PERFORMANCE
7 EVALUATIONS. (a) The executive director or the executive
8 director's designee shall develop an intra-agency career ladder
9 program. The program must require intra-agency posting of all
10 nonentry level positions concurrently with any public posting.

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

16 Sec. 507.104. EQUAL OPPORTUNITY POLICY; REPORT. (a) The
17 executive director or the executive director's designee shall
18 prepare and maintain a written policy statement to ensure
19 implementation of an equal opportunity program under which all
20 personnel transactions are made without regard to race, color,
21 disability, sex, age, religion, or national origin. The policy
22 statement must include:

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

27 (2) a comprehensive analysis of the executive council

1 workforce that meets federal and state guidelines;

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

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

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

9 (1) cover an annual period;

10 (2) be updated annually;

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

13 (4) be filed with the governor.

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

18 SUBCHAPTER D. POWERS AND DUTIES

19 Sec. 507.151. GENERAL POWERS AND DUTIES. The executive
20 council shall administer and enforce this chapter and Chapters 501,
21 502, 503, and 505.

22 Sec. 507.152. GENERAL RULEMAKING AUTHORITY. The executive
23 council shall adopt rules as necessary to perform its duties and
24 implement this chapter.

25 Sec. 507.153. LIMITATION REGARDING CERTAIN RULES. (a)
26 Unless the rule has been proposed by the applicable board for the
27 profession, the executive council may not adopt:

1 (1) a rule regarding:

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

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

7 (C) continuing education requirements for
8 license holders; or

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

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

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

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

23 Sec. 507.154. FEES. The executive council shall set fees in
24 amounts reasonable and necessary to cover the costs of
25 administering this chapter and Chapters 501, 502, 503, and 505,
26 including fees for:

27 (1) licenses issued by the executive council;

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

5 Sec. 507.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE
6 BIDDING. (a) The executive council may not adopt rules restricting
7 advertising or competitive bidding by a person regulated by the
8 executive council except to prohibit false, misleading, or
9 deceptive practices.

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

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

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

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

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

21 Sec. 507.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
22 The executive council shall adopt rules and guidelines as necessary
23 to comply with Chapter 53.

24 Sec. 507.157. CONTINUING EDUCATION. The executive council
25 shall recognize, prepare, or administer continuing education
26 programs for license holders. A license holder must participate in
27 the programs to the extent required by the executive council to keep

1 the person's license.

2 Sec. 507.158. USE OF TECHNOLOGY. The executive council
3 shall implement a policy requiring the executive council to use
4 appropriate technological solutions to improve the executive
5 council's ability to perform its functions. The policy must ensure
6 that the public is able to interact with the executive council on
7 the Internet.

8 Sec. 507.159. NEGOTIATED RULEMAKING AND ALTERNATIVE
9 DISPUTE RESOLUTION POLICY. (a) The executive council shall
10 develop a policy to encourage the use of:

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

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

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

23 (c) The executive council shall:

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

26 (2) provide training as needed to implement the
27 procedures for negotiated rulemaking and alternative dispute

1 resolution; and

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

4 Sec. 507.160. ANNUAL REGISTRY. (a) The executive council
5 shall annually prepare a registry of all license holders.

6 (b) The executive council shall make the registry available
7 to the public, license holders, and other state agencies.

8 SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

9 Sec. 507.201. PUBLIC INTEREST INFORMATION. (a) The
10 executive council shall prepare information of public interest
11 describing the functions of the executive council and the
12 procedures by which complaints are filed with and resolved by the
13 executive council.

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

16 Sec. 507.202. COMPLAINTS. (a) The executive council by
17 rule shall establish methods by which consumers and service
18 recipients are notified of the name, mailing address, and telephone
19 number of the executive council for the purpose of directing
20 complaints to the executive council. The executive council may
21 provide for that notice:

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

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

27 (3) in a bill for services provided by a person

1 regulated by the executive council.

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

6 Sec. 507.203. INFORMATION ABOUT COMPLAINT ACTIONS. (a)
7 The executive council shall maintain a system to promptly and
8 efficiently act on complaints filed with the executive council.
9 The executive council shall maintain information about parties to
10 the complaint, the subject matter of the complaint, a summary of the
11 results of the review or investigation of the complaint, and its
12 disposition.

13 (b) The executive council shall make information available
14 describing its procedures for complaint investigation and
15 resolution.

16 (c) The executive council shall periodically notify the
17 parties to a complaint of the status of the complaint until final
18 disposition of the complaint.

19 Sec. 507.204. GENERAL RULES REGARDING COMPLAINT
20 INVESTIGATION. (a) The executive council shall adopt rules
21 concerning the investigation of a complaint filed with the
22 executive council. The rules adopted under this section must:

23 (1) distinguish between categories of complaints;

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

26 (3) require that the executive council be advised of a
27 complaint that is dismissed and that a letter be sent to the person

1 who filed the complaint explaining the action taken on the
2 complaint;

3 (4) ensure that the person who files a complaint has an
4 opportunity to explain the allegations made in the complaint; and

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

9 (b) The executive council shall:

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

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

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

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

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

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

27 (1) the severity of the conduct alleged in the

1 complaint; and

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

3 Sec. 507.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.

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

8 (1) disclosure under Chapter 552, Government Code; or

9 (2) disclosure, discovery, subpoena, or other means of
10 legal compulsion for release of information to any person.

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

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

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

18 (3) a law enforcement agency;

19 (4) a governmental agency, if:

20 (A) the disclosure is required or permitted by
21 law; and

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

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

26 (c) Unless good cause for delay is shown to the presiding
27 officer at the hearing, the executive council shall provide the

1 license holder with access to all information that the executive
2 council intends to offer into evidence at the hearing not later than
3 the 30th day after the date the executive council receives a written
4 request from a license holder who is entitled to a hearing under
5 this chapter or from the license holder's attorney of record.

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

10 (1) initiates the disciplinary action; or

11 (2) has submitted a written consent to release the
12 records.

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

19 (b) A subpoena may be served personally or by certified
20 mail.

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

26 (d) On finding that good cause exists for issuing the
27 subpoena, the court shall order the person to comply with the

1 subpoena. The court may punish a person who fails to obey the court
2 order.

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

7 (f) The reimbursement of the expenses of a witness whose
8 attendance is compelled under this section is governed by Section
9 2001.103, Government Code.

10 (g) Information and materials subpoenaed or compiled by the
11 executive council in connection with the investigation of a
12 complaint may be disclosed only as provided by Section 507.205.

13 Sec. 507.207. PUBLIC PARTICIPATION. The executive council
14 shall develop and implement policies that provide the public with a
15 reasonable opportunity to appear before the executive council and
16 to speak on any issue under the jurisdiction of the executive
17 council.

18 SUBCHAPTER F. GENERAL LICENSING PROVISIONS

19 Sec. 507.251. CRIMINAL HISTORY RECORD INFORMATION FOR
20 LICENSE ISSUANCE. (a) The executive council shall require that an
21 applicant for a license submit a complete and legible set of
22 fingerprints, on a form prescribed by the executive council, to the
23 executive council or to the Department of Public Safety for the
24 purpose of obtaining criminal history record information from the
25 Department of Public Safety and the Federal Bureau of
26 Investigation.

27 (b) The executive council may not issue a license to a

1 person who does not comply with the requirement of Subsection (a).

2 (c) The executive council shall conduct a criminal history
3 record information check of each applicant for a license using
4 information:

5 (1) provided by the individual under this section; and

6 (2) made available to the executive council by the
7 Department of Public Safety, the Federal Bureau of Investigation,
8 and any other criminal justice agency under Chapter 411, Government
9 Code.

10 (d) The executive council may:

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

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

18 Sec. 507.252. EXAMINATION RESULTS. (a) The executive
19 council shall notify each examinee of the results of an examination
20 not later than the 30th day after the date the examination is
21 administered. If an examination is graded or reviewed by a national
22 testing service, the executive council shall notify each examinee
23 of the results of the examination not later than the 14th day after
24 the date the executive council receives the results from the
25 testing service.

26 (b) If the notice of examination results graded or reviewed
27 by a national testing service will be delayed for longer than 90

1 days after the examination date, the executive council shall notify
2 each examinee of the reason for the delay before the 90th day.

3 (c) If requested in writing by a person who fails an
4 examination, the executive council shall provide to the person an
5 analysis of the person's performance on the examination.

6 Sec. 507.253. REEXAMINATION. The executive council by rule
7 shall establish:

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

10 (2) the requirements for retaking an examination.

11 Sec. 507.254. LICENSE RENEWAL. (a) A person who is
12 otherwise eligible to renew a license may renew an unexpired
13 license by paying the required renewal fee to the executive council
14 before the expiration date of the license.

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

19 (c) If the person's license has been expired for more than
20 90 days but less than one year, the person may renew the license by
21 paying to the executive council a fee in an amount equal to two
22 times the required renewal fee.

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

27 Sec. 507.255. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE

1 PRACTITIONER. (a) The executive council may renew without
2 reexamination an expired license of a person who was licensed in
3 this state, moved to another state, and is currently licensed and
4 has been in practice in the other state for the two years preceding
5 the date the person applies for renewal.

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

8 Sec. 507.256. CRIMINAL HISTORY RECORD INFORMATION
9 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
10 license issued under this chapter shall submit a complete and
11 legible set of fingerprints for purposes of performing a criminal
12 history record information check of the applicant as provided by
13 Section 507.251.

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

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

20 (1) Section 507.251 for the initial issuance of the
21 license; or

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

23 Sec. 507.257. SEARCH OF NATIONAL PRACTITIONER DATABASE.
24 The executive council shall establish a process to search at least
25 one national practitioner database to determine whether another
26 state has taken any disciplinary or other legal action against an
27 applicant or license holder before issuing an initial or renewal

1 license.

2 SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES

3 Sec. 507.301. DISCIPLINARY ACTIONS. (a) The executive

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

7 (1) this chapter;

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

10 (3) an executive council rule; or

11 (4) a statute or rule of another state as determined
12 through a search conducted as provided by Section 507.257 if the
13 violation would constitute a violation described by Subdivision
14 (1), (2), or (3) had it occurred in this state.

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

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

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

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

26 Sec. 507.302. TEMPORARY SUSPENSION. (a) The executive
27 council or a three-member committee of executive council members

1 designated by the executive council shall temporarily suspend the
2 license of a license holder if the executive council or committee
3 determines from the evidence or information presented to it that
4 continued practice by the license holder would constitute a
5 continuing and imminent threat to the public welfare.

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

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

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

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

19 Sec. 507.303. HEARING; ADMINISTRATIVE PROCEDURE. (a) A
20 license holder is entitled to a hearing before the State Office of
21 Administrative Hearings before a sanction is imposed under this
22 subchapter.

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

25 Sec. 507.304. SCHEDULE OF SANCTIONS. (a) The executive
26 council by rule shall adopt a broad schedule of sanctions.

27 (b) The State Office of Administrative Hearings shall use

1 the schedule for any sanction imposed under this subchapter as the
2 result of a hearing conducted by that office.

3 Sec. 507.305. INFORMAL PROCEEDINGS. (a) The executive
4 council by rule shall adopt procedures governing:

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

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

9 (b) Rules adopted under this section must:

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

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

16 Sec. 507.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS. The
17 executive council shall adopt rules establishing the manner in
18 which the executive council will solicit input from and request the
19 assistance of the applicable board for a profession regulated by
20 the executive council, regarding a disciplinary proceeding before
21 the executive council involving an issue or complaint related to
22 standards of care or ethical practice.

23 SUBCHAPTER H. ADMINISTRATIVE PENALTY

24 Sec. 507.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The
25 executive council may impose an administrative penalty on a person
26 licensed or regulated by the executive council if the person
27 violates this chapter, a law regulating the applicable profession,

1 or an executive council rule.

2 Sec. 507.352. AMOUNT OF PENALTY. (a) The amount of an
3 administrative penalty may not exceed \$5,000 for each violation.
4 Each day a violation continues or occurs is a separate violation for
5 purposes of imposing a penalty.

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

7 (1) the seriousness of the violation, including:

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

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

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

14 (3) the history of previous violations;

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

16 (5) efforts made to correct the violation; and

17 (6) any other matter that justice may require.

18 Sec. 507.353. NOTICE OF VIOLATION AND PENALTY. If the
19 executive council determines that a violation occurred, the
20 executive council shall give written notice of the violation to the
21 person alleged to have committed the violation. The notice may be
22 given by certified mail. The notice must:

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

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

26 (3) inform the person of the person's right to a
27 hearing on the occurrence of the violation, the amount of the

1 penalty, or both.

2 Sec. 507.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
3 Not later than the 20th day after the date the person receives the
4 notice under Section 507.353, the person may in writing:

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

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

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

12 Sec. 507.355. HEARING. (a) If the person requests a
13 hearing or fails to respond in a timely manner to the notice under
14 Section 507.353, the executive council shall set a hearing and give
15 written notice of the hearing to the person.

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

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

22 Sec. 507.356. DECISION BY EXECUTIVE COUNCIL. (a) Based on
23 the findings of fact, conclusions of law, and proposal for a
24 decision, the executive council by order may determine that:

25 (1) a violation occurred and impose an administrative
26 penalty; or

27 (2) a violation did not occur.

1 (b) The executive council shall give notice of the order to
2 the person. The notice must include a statement of the right of the
3 person to judicial review of the order.

4 Sec. 507.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

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

7 (1) pay the administrative penalty; or

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

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

12 (1) stay enforcement of the penalty by:

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

15 (B) giving to the court a supersedeas bond
16 approved by the court that is:

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

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

20 (2) request the court to stay enforcement of the
21 penalty by:

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

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

27 (c) If the executive council receives a copy of an affidavit

1 under Subsection (b)(2), the executive council may file with the
2 court a contest to the affidavit not later than the fifth day after
3 the date the copy is received.

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

10 Sec. 507.358. COLLECTION OF PENALTY. If the person does not
11 pay the administrative penalty and enforcement of the penalty is
12 not stayed, the executive council may refer the matter to the
13 attorney general for collection of the penalty.

14 Sec. 507.359. DETERMINATION BY COURT. (a) If the court
15 sustains the determination that a violation has occurred, the court
16 may uphold or reduce the amount of the administrative penalty and
17 order the person to pay the full or reduced amount of the penalty.

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

21 Sec. 507.360. REMITTANCE OF PENALTY AND INTEREST. (a) If,
22 after judicial review, the administrative penalty is reduced or not
23 imposed by the court, the court shall, after the judgment becomes
24 final:

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

1 (2) order the release of the bond:

2 (A) if the person gave a supersedeas bond and the
3 penalty is not imposed; or

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

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

11 Sec. 507.361. ADMINISTRATIVE PROCEDURE. A proceeding under
12 this subchapter is subject to Chapter 2001, Government Code.

13 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

14 Sec. 507.401. INJUNCTION. (a) In addition to any other
15 action authorized by law, the executive council may institute an
16 action to enjoin a violation of this chapter, a law regulating the
17 applicable profession, or an executive council rule.

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

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

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

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

2 SECTION 2.003. Sections 501.053(b) and (c), Occupations
3 Code, are amended to read as follows:

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

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

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

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

21 SECTION 2.004. Section 501.055(c), Occupations Code, is
22 amended to read as follows:

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

1 removal exists. If the potential ground for removal involves the
2 presiding officer, the executive director shall notify the next
3 highest ranking officer of the board, who shall then notify the
4 governor and the attorney general that a potential ground for
5 removal exists.

6 SECTION 2.005. Section 501.059, Occupations Code, is
7 amended by amending Subsection (b) and adding Subsection (d) to
8 read as follows:

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

11 (1) the law governing board operations;

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

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

16 (4) [~~(2)~~] the results of the most recent formal audit
17 of the board;

18 (5) [~~(3)~~] the requirements of:

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

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

24 (6) [~~(4)~~] any applicable ethics policies adopted by
25 the board or the Texas Ethics Commission.

26 (d) The executive director of the executive council shall
27 create a training manual that includes the information required by

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

6 SECTION 2.006. The heading to Subchapter D, Chapter 501,
7 Occupations Code, is amended to read as follows:

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

9 SECTION 2.007. The heading to Section 501.151, Occupations
10 Code, is amended to read as follows:

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

13 SECTION 2.008. Sections 501.151(c) and (d), Occupations
14 Code, are amended to read as follows:

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

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

19 SECTION 2.009. Subchapter D, Chapter 501, Occupations Code,
20 is amended by adding Section 501.1515 to read as follows:

21 Sec. 501.1515. BOARD DUTIES. The board shall propose to the
22 executive council:

23 (1) rules regarding:

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

27 (B) the scope of practice of and standards of

1 care and ethical practice for psychology; and
2 (C) continuing education requirements for
3 license holders; and
4 (2) a schedule of sanctions for violations of this
5 chapter or rules adopted under this chapter.

6 SECTION 2.010. Section 501.155, Occupations Code, is
7 amended to read as follows:

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

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

16 SECTION 2.011. Section 501.158, Occupations Code, is
17 amended to read as follows:

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

20 (1) applying to take the [~~provisional~~] license
21 examination;

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

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

25 (4) otherwise providing psychological services under
26 a license approved by the executive council under this chapter
27 [~~board~~].

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

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

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

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

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

26 (e) Unless the request is withdrawn, the executive council
27 may take disciplinary action against a person who refuses to submit

1 to the physical or mental examination [~~may not take the provisional~~
2 ~~license examination or renew the person's license, as appropriate~~].

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

5 SECTION 2.012. Section 501.252(a), Occupations Code, is
6 amended to read as follows:

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

10 (1) is qualified for the license under Section
11 501.2525 [~~complies with this section~~]; and

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

13 SECTION 2.013. Section 501.255, Occupations Code, is
14 redesignated as Section 501.2525, Occupations Code, and amended to
15 read as follows:

16 Sec. 501.2525 [~~501.255~~]. [~~PROVISIONAL~~] LICENSE

17 [~~EXAMINATION~~] QUALIFICATIONS. (a) An applicant is qualified [~~may~~
18 ~~take an examination~~] for a [~~provisional~~] license under this chapter
19 if the applicant:

20 (1) has received:

21 (A) a doctoral degree in psychology from a
22 regionally accredited educational institution conferred on or
23 after January 1, 1979; or

24 (B) a doctoral degree in psychology, or the
25 substantial equivalent of a doctoral degree in psychology in both
26 subject matter and extent of training, from a regionally accredited
27 educational institution conferred before January 1, 1979;

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

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

8 (B) passed any examination required by Section
9 501.256;

10 (3) has attained the age of majority;

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

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

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

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

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

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

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

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

1 (B) represented that the applicant is licensed
2 under this chapter to practice psychology when the applicant is not
3 licensed; or

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

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

14 (c) Subsection (a)(2)(A) does not apply to an applicant who:

15 (1) is licensed in good standing in another state to
16 independently practice psychology; and

17 (2) has independently practiced psychology in that
18 state for at least five years.

19 (d) For purposes of Subsection (a)(2)(A), experience is
20 supervised only if the experience is supervised by a psychologist
21 in the manner provided by the executive council's supervision
22 guidelines. To determine the acceptability of an applicant's
23 experience, the executive council may require documentary evidence
24 of the quality, scope, and nature of the applicant's experience.
25 The executive council may count toward the supervised experience an
26 applicant is required to obtain after the applicant's degree is
27 conferred any hours of supervised experience the applicant

1 completed as part of a degree program accredited by the American
2 Psychological Association, the Canadian Psychological Association,
3 or a substantially equivalent degree program.

4 SECTION 2.014. Section 501.253, Occupations Code, is
5 amended to read as follows:

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

12 [~~(1) passed the examinations prescribed by the board,~~
13 [~~(2) satisfied the preliminary requirements of~~
14 ~~Sections 501.254 and 501.255; and~~
15 [~~(3) paid the fee for a provisional license~~].

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

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

1 ~~holders~~ identifying:

2 (1) the activities that the license holder ~~holders~~
3 may engage in; and

4 (2) services that may be provided by the license
5 holder ~~holders~~.

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

10 (e) The executive council ~~board~~ may not restrict the
11 issuance of a license ~~or provisional license~~ to an applicant who
12 is licensed in another state to independently practice psychology
13 and is in good standing in that state based on the number of years
14 the applicant has been licensed in good standing in that state.

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

24 SECTION 2.015. Sections 501.256(a), (b), (c), and (d),
25 Occupations Code, are amended to read as follows:

26 (a) The executive council ~~board~~ shall administer to
27 qualified applicants at least annually any ~~the oral and~~ written

1 examination required by executive council [~~board~~] rules. An [~~The~~
2 ~~board shall have the written portion of the~~] examination must be [~~,~~
3 ~~if any,~~] validated by an independent testing professional.

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

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

11 (c) The executive council [~~board~~] may waive the discipline
12 and professional segment of the examination requirement for an
13 applicant who:

- 14 (1) is a specialist of the American Board of
15 Professional Psychology; or
16 (2) in the executive council's [~~board's~~] judgment, has
17 demonstrated competence in the areas covered by the examination.

18 (d) The contents of the examination described by Subsection
19 (b)(2) are the jurisprudence examination. The executive council
20 [~~board~~] shall administer and each applicant must pass the
21 jurisprudence examination before the executive council [~~board~~] may
22 issue a [~~provisional~~] license.

23 SECTION 2.016. Section 501.259, Occupations Code, is
24 amended to read as follows:

25 Sec. 501.259. LICENSING OF PSYCHOLOGICAL ASSOCIATE. (a)
26 The executive council [~~board~~] shall set standards for the issuance
27 of licenses to psychological personnel who hold a master's degree

1 from an accredited university or college in a program that is
2 primarily psychological in nature.

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

7 SECTION 2.017. Sections 501.260(a) and (b), Occupations
8 Code, are amended to read as follows:

9 (a) The executive council [~~board~~] by rule shall issue a
10 license to a licensed specialist in school psychology. A license
11 issued under this section constitutes the appropriate credential
12 for a person who provides psychological services as required by
13 Section 21.003(b), Education Code.

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

17 (1) satisfaction of minimum recognized graduate
18 degree requirements;

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

21 (A) psychological foundations;

22 (B) educational foundations;

23 (C) interventions;

24 (D) assessments; and

25 (E) professional issues and ethics;

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

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

5 (5) satisfaction of the requirements under Sections
6 501.2525(a)(3)-(9) [~~, other than the degree requirements, for an~~
7 ~~applicant to take an examination for a provisional license~~].

8 SECTION 2.018. Section 501.262, Occupations Code, is
9 amended to read as follows:

10 Sec. 501.262. RECIPROCAL LICENSE. The executive council
11 [~~board~~] may enter into and implement agreements with other
12 jurisdictions for the issuance of a license by reciprocity if the
13 other jurisdiction's requirements for licensing, certification, or
14 registration are substantially equal to the requirements of this
15 chapter.

16 SECTION 2.019. Sections 501.263(a), (b), (c), and (e),
17 Occupations Code, are amended to read as follows:

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

21 (1) pays the required application fee;

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

24 (3) is licensed, certified, or registered as a
25 psychologist or psychological associate by another state having
26 requirements substantially equal to those prescribed by this
27 chapter;

1 (4) is in good standing with the regulatory agency of
2 the jurisdiction in which the person is licensed, certified, or
3 registered;

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

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

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

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

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

21 SECTION 2.020. Section 501.264(a), Occupations Code, is
22 amended to read as follows:

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

26 SECTION 2.021. Section 501.301, Occupations Code, is
27 amended to read as follows:

1 Sec. 501.301. LICENSE EXPIRATION AND RENEWAL. (a) The
2 executive council shall adopt rules providing for the expiration
3 and renewal of a [A] license issued under this chapter. The rules
4 must require a license be renewed annually or biennially [~~expires~~
5 ~~on December 31 of the year following the date the license is issued~~
6 ~~or renewed. A license of a psychological associate expires on May~~
7 ~~31 of the year following the date the license is issued or renewed~~].

8 (b) The executive council [~~board~~] by rule may adopt a system
9 under which licenses expire on various dates during the year. For a
10 year in which the expiration date is changed, the executive council
11 [~~board~~] shall prorate the licensing fee so that each license holder
12 pays only the portion of the fee that is allocable to the number of
13 months during which the license is valid. On renewal of the license
14 on the new expiration date, the entire licensing fee is payable.

15 SECTION 2.022. Sections 501.351(a) and (c), Occupations
16 Code, are amended to read as follows:

17 (a) A psychologist licensed under this chapter may delegate
18 to a [~~provisionally licensed~~] psychologist who holds a license
19 described by Section 501.253, a newly licensed psychologist who is
20 not eligible for managed care panels, a person who holds a temporary
21 license issued under Section 501.263, or a person enrolled in a
22 formal internship as provided by executive council [~~board~~] rules [~~7~~
23 ~~and a person who satisfies Section 501.255(a) and is in the process~~
24 ~~of acquiring the supervised experience required by Section~~
25 ~~501.252(b)(2)] any psychological test or service that a reasonable
26 and prudent psychologist could delegate within the scope of sound
27 psychological judgment if the psychologist determines that:~~

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

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

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

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

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

10 (2) a delegated act constitutes the practice of
11 psychology under this chapter.

12 SECTION 2.023. Section 501.401, Occupations Code, is
13 amended to read as follows:

14 Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION. The
15 executive council [~~board~~] shall take disciplinary action under
16 Subchapter G, Chapter 507, against [~~revoke or suspend a holder's~~
17 ~~license, place on probation a person whose license has been~~
18 ~~suspended, or reprimand~~] a license holder who:

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

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

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

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

1 (5) except as provided by Section 501.263:

2 (A) aids or abets the practice of psychology by a
3 person not licensed under this chapter in representing that the
4 person is licensed under this chapter;

5 (B) represents that the person is licensed under
6 this chapter to practice psychology when the person is not
7 licensed; or

8 (C) practices psychology in this state without a
9 license under this chapter or without being qualified for an
10 exemption under Section 501.004; or

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

13 SECTION 2.024. Section 501.407, Occupations Code, is
14 amended to read as follows:

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

21 SECTION 2.025. Section 501.408, Occupations Code, is
22 amended to read as follows:

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

27 SECTION 2.026. Subchapter I, Chapter 501, Occupations Code,

1 is amended by adding Section 501.411 to read as follows:

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

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

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

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

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

14 (1) revokes, suspends, limits, or restricts a person's
15 license; or

16 (2) assesses an administrative penalty against a
17 person.

18 (d) The executive council may not issue a remedial plan to
19 resolve a complaint against a license holder if the license holder
20 has previously entered into a remedial plan with the executive
21 council for the resolution of a different complaint filed under
22 this chapter.

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

26 SECTION 2.027. Section 501.505, Occupations Code, is
27 amended to read as follows:

1 Sec. 501.505. OPTION TO ORDER REFUND. (a) Under an
2 agreement resulting from an informal settlement conference, the
3 executive council [~~board~~] may order a license holder to refund to
4 the person who paid for the psychological services at issue an
5 amount not to exceed the amount the person paid to the license
6 holder for a service regulated by this chapter instead of or in
7 addition to imposing an administrative penalty under Subchapter H,
8 Chapter 507 [~~this chapter~~].

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

11 SECTION 2.028. Chapter 501, Occupations Code, is amended by
12 adding Subchapter L to read as follows:

13 SUBCHAPTER L. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

14 Sec. 501.601. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. The
15 Psychology Interjurisdictional Compact is enacted and entered into
16 as follows:

17 PSYCHOLOGY INTERJURISDICTIONAL COMPACT

18 ARTICLE I. PURPOSE

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

22 Whereas, this Compact is intended to regulate the day to day
23 practice of telepsychology (i.e. the provision of psychological
24 services using telecommunication technologies) by psychologists
25 across state boundaries in the performance of their psychological
26 practice as assigned by an appropriate authority; and

27 Whereas, this Compact is intended to regulate the temporary

1 in-person, face-to-face practice of psychology by psychologists
2 across state boundaries for 30 days within a calendar year in the
3 performance of their psychological practice as assigned by an
4 appropriate authority;

5 Whereas, this Compact is intended to authorize State Psychology
6 Regulatory Authorities to afford legal recognition, in a manner
7 consistent with the terms of the Compact, to psychologists licensed
8 in another state;

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

13 Whereas, this Compact does not apply when a psychologist is
14 licensed in both the Home and Receiving States; and

15 Whereas, this Compact does not apply to permanent in-person,
16 face-to-face practice, it does allow for authorization of temporary
17 psychological practice.

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

20 1. Increase public access to professional psychological
21 services by allowing for telepsychological practice
22 across state lines as well as temporary in-person,
23 face-to-face services into a state which the psychologist
24 is not licensed to practice psychology;

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

27 3. Encourage the cooperation of Compact States in the areas of

1 psychology licensure and regulation;

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

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

7 6. Invest all Compact States with the authority to hold
8 licensed psychologists accountable through the mutual
9 recognition of Compact State licenses.

10 ARTICLE II. DEFINITIONS

11 A. "Adverse Action" means: Any action taken by a State Psychology
12 Regulatory Authority which finds a violation of a statute or
13 regulation that is identified by the State Psychology
14 Regulatory Authority as discipline and is a matter of public
15 record.

16 B. "Association of State and Provincial Psychology Boards
17 (ASPPB)" means: the recognized membership organization
18 composed of State and Provincial Psychology Regulatory
19 Authorities responsible for the licensure and registration of
20 psychologists throughout the United States and Canada.

21 C. "Authority to Practice Interjurisdictional Telepsychology"
22 means: a licensed psychologist's authority to practice
23 telepsychology, within the limits authorized under this
24 Compact, in another Compact State.

25 D. "Bylaws" means: those Bylaws established by the Psychology
26 Interjurisdictional Compact Commission pursuant to Section X
27 for its governance, or for directing and controlling its

- 1 actions and conduct.
- 2 E. "Client/Patient" means: the recipient of psychological
3 services, whether psychological services are delivered in the
4 context of healthcare, corporate, supervision, and/or
5 consulting services.
- 6 F. "Commissioner" means: the voting representative appointed by
7 each State Psychology Regulatory Authority pursuant to Section
8 X.
- 9 G. "Compact State" means: a state, the District of Columbia, or
10 United States territory that has enacted this Compact
11 legislation and which has not withdrawn pursuant to Article
12 XIII, Section C or been terminated pursuant to Article XII,
13 Section B.
- 14 H. "Coordinated Licensure Information System" also referred to as
15 "Coordinated Database" means: an integrated process for
16 collecting, storing, and sharing information on psychologists'
17 licensure and enforcement activities related to psychology
18 licensure laws, which is administered by the recognized
19 membership organization composed of State and Provincial
20 Psychology Regulatory Authorities.
- 21 I. "Confidentiality" means: the principle that data or
22 information is not made available or disclosed to unauthorized
23 persons and/or processes.
- 24 J. "Day" means: any part of a day in which psychological work is
25 performed.
- 26 K. "Distant State" means: the Compact State where a psychologist
27 is physically present (not through the use of

1 telecommunications technologies), to provide temporary
2 in-person, face-to-face psychological services.

3 L. "E.Passport" means: a certificate issued by the Association of
4 State and Provincial Psychology Boards (ASPPB) that promotes
5 the standardization in the criteria of interjurisdictional
6 telepsychology practice and facilitates the process for
7 licensed psychologists to provide telepsychological services
8 across state lines.

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

12 N. "Home State" means: a Compact State where a psychologist is
13 licensed to practice psychology. If the psychologist is
14 licensed in more than one Compact State and is practicing under
15 the Authorization to Practice Interjurisdictional
16 Telepsychology, the Home State is the Compact State where the
17 psychologist is physically present when the telepsychological
18 services are delivered. If the psychologist is licensed in more
19 than one Compact State and is practicing under the Temporary
20 Authorization to Practice, the Home State is any Compact State
21 where the psychologist is licensed.

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

26 P. "In-Person, Face-to-Face" means: interactions in which the
27 psychologist and the client/patient are in the same physical

1 space and which does not include interactions that may occur
2 through the use of telecommunication technologies.

3 Q. "Interjurisdictional Practice Certificate (IPC)" means: a
4 certificate issued by the Association of State and Provincial
5 Psychology Boards (ASPPB) that grants temporary authority to
6 practice based on notification to the State Psychology
7 Regulatory Authority of intention to practice temporarily, and
8 verification of one's qualifications for such practice.

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

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

14 T. "Psychologist" means: an individual licensed for the
15 independent practice of psychology.

16 U. "Psychology Interjurisdictional Compact Commission" also
17 referred to as "Commission" means: the national administration
18 of which all Compact States are members.

19 V. "Receiving State" means: a Compact State where the
20 client/patient is physically located when the
21 telepsychological services are delivered.

22 W. "Rule" means: a written statement by the Psychology
23 Interjurisdictional Compact Commission promulgated pursuant
24 to Section XI of the Compact that is of general applicability,
25 implements, interprets, or prescribes a policy or provision of
26 the Compact, or an organizational, procedural, or practice
27 requirement of the Commission and has the force and effect of

1 statutory law in a Compact State, and includes the amendment,
2 repeal or suspension of an existing rule.

3 X. "Significant Investigatory Information" means:

4 1. investigative information that a State Psychology
5 Regulatory Authority, after a preliminary inquiry that
6 includes notification and an opportunity to respond if
7 required by state law, has reason to believe, if proven
8 true, would indicate more than a violation of state
9 statute or ethics code that would be considered more
10 substantial than minor infraction; or

11 2. investigative information that indicates that the
12 psychologist represents an immediate threat to public
13 health and safety regardless of whether the psychologist
14 has been notified and/or had an opportunity to respond.

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

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

20 AA. "Telepsychology" means: the provision of psychological
21 services using telecommunication technologies.

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

26 CC. "Temporary In-Person, Face-to-Face Practice" means: where a
27 psychologist is physically present (not through the use of

1 telecommunications technologies), in the Distant State to
2 provide for the practice of psychology for 30 days within a
3 calendar year and based on notification to the Distant State.

4 ARTICLE III. HOME STATE LICENSURE

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

7 B. A psychologist may hold one or more Compact State licenses at a
8 time. If the psychologist is licensed in more than one Compact
9 State, the Home State is the Compact State where the
10 psychologist is physically present when the services are
11 delivered as authorized by the Authority to Practice
12 Interjurisdictional Telepsychology under the terms of this
13 Compact.

14 C. Any Compact State may require a psychologist not previously
15 licensed in a Compact State to obtain and retain a license to be
16 authorized to practice in the Compact State under
17 circumstances not authorized by the Authority to Practice
18 Interjurisdictional Telepsychology under the terms of this
19 Compact.

20 D. Any Compact State may require a psychologist to obtain and
21 retain a license to be authorized to practice in a Compact
22 State under circumstances not authorized by Temporary
23 Authorization to Practice under the terms of this Compact.

24 E. A Home State's license authorizes a psychologist to practice in
25 a Receiving State under the Authority to Practice
26 Interjurisdictional Telepsychology only if the Compact State:
27 1. Currently requires the psychologist to hold an active

1 E.Passport;

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

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

7 4. Requires an Identity History Summary of all applicants at
8 initial licensure, including the use of the results of
9 fingerprints or other biometric data checks compliant with
10 the requirements of the Federal Bureau of Investigation
11 FBI, or other designee with similar authority, no later
12 than ten years after activation of the Compact; and

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

14 F. A Home State's license grants Temporary Authorization to
15 Practice to a psychologist in a Distant State only if the
16 Compact State:

17 1. Currently requires the psychologist to hold an active IPC;

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

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

23 4. Requires an Identity History Summary of all applicants at
24 initial licensure, including the use of the results of
25 fingerprints or other biometric data checks compliant with
26 the requirements of the Federal Bureau of Investigation
27 FBI, or other designee with similar authority, no later

1 than ten years after activation of the Compact; and

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

3 ARTICLE IV. COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

4 A. Compact States shall recognize the right of a psychologist,
5 licensed in a Compact State in conformance with Article III, to
6 practice telepsychology in other Compact States (Receiving
7 States) in which the psychologist is not licensed, under the
8 Authority to Practice Interjurisdictional Telepsychology as
9 provided in the Compact.

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

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

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

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

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

- 1 a. The program, wherever it may be administratively
2 housed, must be clearly identified and labeled as a
3 psychology program. Such a program must specify in
4 pertinent institutional catalogues and brochures its
5 intent to educate and train professional
6 psychologists;
- 7 b. The psychology program must stand as a recognizable,
8 coherent, organizational entity within the
9 institution;
- 10 c. There must be a clear authority and primary
11 responsibility for the core and specialty areas
12 whether or not the program cuts across administrative
13 lines;
- 14 d. The program must consist of an integrated, organized
15 sequence of study;
- 16 e. There must be an identifiable psychology faculty
17 sufficient in size and breadth to carry out its
18 responsibilities;
- 19 f. The designated director of the program must be a
20 psychologist and a member of the core faculty;
- 21 g. The program must have an identifiable body of students
22 who are matriculated in that program for a degree;
- 23 h. The program must include supervised practicum,
24 internship, or field training appropriate to the
25 practice of psychology;
- 26 i. The curriculum shall encompass a minimum of three
27 academic years of full-time graduate study for

1 doctoral degree and a minimum of one academic year of
2 full-time graduate study for master's degree;

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

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

8 4. Have no history of adverse action that violate the Rules of
9 the Commission;

10 5. Have no criminal record history reported on an Identity
11 History Summary that violates the Rules of the Commission;

12 6. Possess a current, active E.Passport;

13 7. Provide attestations in regard to areas of intended
14 practice, conformity with standards of practice,
15 competence in telepsychology technology; criminal
16 background; and knowledge and adherence to legal
17 requirements in the home and receiving states, and provide
18 a release of information to allow for primary source
19 verification in a manner specified by the Commission; and

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

22 C. The Home State maintains authority over the license of any
23 psychologist practicing into a Receiving State under the
24 Authority to Practice Interjurisdictional Telepsychology.

25 D. A psychologist practicing into a Receiving State under the
26 Authority to Practice Interjurisdictional Telepsychology will
27 be subject to the Receiving State's scope of practice. A

1 Receiving State may, in accordance with that state's due
2 process law, limit or revoke a psychologist's Authority to
3 Practice Interjurisdictional Telepsychology in the Receiving
4 State and may take any other necessary actions under the
5 Receiving State's applicable law to protect the health and
6 safety of the Receiving State's citizens. If a Receiving State
7 takes action, the state shall promptly notify the Home State
8 and the Commission.

9 E. If a psychologist's license in any Home State, another Compact
10 State, or any Authority to Practice Interjurisdictional
11 Telepsychology in any Receiving State, is restricted,
12 suspended or otherwise limited, the E.Passport shall be
13 revoked and therefore the psychologist shall not be eligible to
14 practice telepsychology in a Compact State under the Authority
15 to Practice Interjurisdictional Telepsychology.

16 ARTICLE V. COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

17 A. Compact States shall also recognize the right of a
18 psychologist, licensed in a Compact State in conformance with
19 Article III, to practice temporarily in other Compact States
20 (Distant States) in which the psychologist is not licensed, as
21 provided in the Compact.

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

25 1. Hold a graduate degree in psychology from an institute of
26 higher education that was, at the time the degree was
27 awarded:

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

11 2. Hold a graduate degree in psychology that meets the
12 following criteria:

- 13 a. The program, wherever it may be administratively
14 housed, must be clearly identified and labeled as a
15 psychology program. Such a program must specify in
16 pertinent institutional catalogues and brochures its
17 intent to educate and train professional
18 psychologists;
19 b. The psychology program must stand as a recognizable,
20 coherent, organizational entity within the
21 institution;
22 c. There must be a clear authority and primary
23 responsibility for the core and specialty areas
24 whether or not the program cuts across administrative
25 lines;
26 d. The program must consist of an integrated, organized
27 sequence of study;

- 1 e. There must be an identifiable psychology faculty
2 sufficient in size and breadth to carry out its
3 responsibilities;
- 4 f. The designated director of the program must be a
5 psychologist and a member of the core faculty;
- 6 g. The program must have an identifiable body of students
7 who are matriculated in that program for a degree;
- 8 h. The program must include supervised practicum,
9 internship, or field training appropriate to the
10 practice of psychology;
- 11 i. The curriculum shall encompass a minimum of three
12 academic years of full-time graduate study for
13 doctoral degrees and a minimum of one academic year of
14 full-time graduate study for master's degree;
- 15 j. The program includes an acceptable residency as
16 defined by the Rules of the Commission.
- 17 3. Possess a current, full and unrestricted license to
18 practice psychology in a Home State which is a Compact
19 State;
- 20 4. No history of adverse action that violate the Rules of the
21 Commission;
- 22 5. No criminal record history that violates the Rules of the
23 Commission;
- 24 6. Possess a current, active IPC;
- 25 7. Provide attestations in regard to areas of intended
26 practice and work experience and provide a release of
27 information to allow for primary source verification in a

1 manner specified by the Commission; and

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

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

7 D. A psychologist practicing into a Distant State under the
8 Temporary Authorization to Practice will be subject to the
9 Distant State's authority and law. A Distant State may, in
10 accordance with that state's due process law, limit or revoke a
11 psychologist's Temporary Authorization to Practice in the
12 Distant State and may take any other necessary actions under
13 the Distant State's applicable law to protect the health and
14 safety of the Distant State's citizens. If a Distant State
15 takes action, the state shall promptly notify the Home State
16 and the Commission.

17 E. If a psychologist's license in any Home State, another Compact
18 State, or any Temporary Authorization to Practice in any
19 Distant State, is restricted, suspended or otherwise limited,
20 the IPC shall be revoked and therefore the psychologist shall
21 not be eligible to practice in a Compact State under the
22 Temporary Authorization to Practice.

23 ARTICLE VI. CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING
24 STATE

25 A. A psychologist may practice in a Receiving State under the
26 Authority to Practice Interjurisdictional Telepsychology only
27 in the performance of the scope of practice for psychology as

1 assigned by an appropriate State Psychology Regulatory
2 Authority, as defined in the Rules of the Commission, and under
3 the following circumstances:

- 4 1. The psychologist initiates a client/patient contact in a
5 Home State via telecommunications technologies with a
6 client/patient in a Receiving State;
7 2. Other conditions regarding telepsychology as determined by
8 Rules promulgated by the Commission.

9 ARTICLE VII. ADVERSE ACTIONS

10 A. A Home State shall have the power to impose adverse action
11 against a psychologist's license issued by the Home State. A
12 Distant State shall have the power to take adverse action on a
13 psychologist's Temporary Authorization to Practice within that
14 Distant State.

15 B. A Receiving State may take adverse action on a psychologist's
16 Authority to Practice Interjurisdictional Telepsychology
17 within that Receiving State. A Home State may take adverse
18 action against a psychologist based on an adverse action taken
19 by a Distant State regarding temporary in-person, face-to-face
20 practice.

21 C. If a Home State takes adverse action against a psychologist's
22 license, that psychologist's Authority to Practice
23 Interjurisdictional Telepsychology is terminated and the
24 E.Passport is revoked. Furthermore, that psychologist's
25 Temporary Authorization to Practice is terminated and the IPC
26 is revoked.

- 27 1. All Home State disciplinary orders which impose adverse

1 action shall be reported to the Commission in accordance
2 with the Rules promulgated by the Commission. A Compact
3 State shall report adverse actions in accordance with the
4 Rules of the Commission.

5 2. In the event discipline is reported on a psychologist, the
6 psychologist will not be eligible for telepsychology or
7 temporary in-person, face-to-face practice in accordance
8 with the Rules of the Commission.

9 3. Other actions may be imposed as determined by the Rules
10 promulgated by the Commission.

11 D. A Home State's Psychology Regulatory Authority shall
12 investigate and take appropriate action with respect to
13 reported inappropriate conduct engaged in by a licensee which
14 occurred in a Receiving State as it would if such conduct had
15 occurred by a licensee within the Home State. In such cases,
16 the Home State's law shall control in determining any adverse
17 action against a psychologist's license.

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

27 F. Nothing in this Compact shall override a Compact State's

1 decision that a psychologist's participation in an alternative
2 program may be used in lieu of adverse action and that such
3 participation shall remain non-public if required by the
4 Compact State's law. Compact States must require psychologists
5 who enter any alternative programs to not provide
6 telepsychology services under the Authority to Practice
7 Interjurisdictional Telepsychology or provide temporary
8 psychological services under the Temporary Authorization to
9 Practice in any other Compact State during the term of the
10 alternative program.

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

14 ARTICLE VIII. ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S
15 PSYCHOLOGY REGULATORY AUTHORITY

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

19 1. Issue subpoenas, for both hearings and investigations,
20 which require the attendance and testimony of witnesses
21 and the production of evidence. Subpoenas issued by a
22 Compact State's Psychology Regulatory Authority for the
23 attendance and testimony of witnesses, and/or the
24 production of evidence from another Compact State shall be
25 enforced in the latter state by any court of competent
26 jurisdiction, according to that court's practice and
27 procedure in considering subpoenas issued in its own

1 proceedings. The issuing State Psychology Regulatory
2 Authority shall pay any witness fees, travel expenses,
3 mileage and other fees required by the service statutes of
4 the state where the witnesses and/or evidence are located;
5 and

6 2. Issue cease and desist and/or injunctive relief orders to
7 revoke a psychologist's Authority to Practice
8 Interjurisdictional Telepsychology and/or Temporary
9 Authorization to Practice.

10 3. During the course of any investigation, a psychologist may
11 not change his/her Home State licensure. A Home State
12 Psychology Regulatory Authority is authorized to complete
13 any pending investigations of a psychologist and to take
14 any actions appropriate under its law. The Home State
15 Psychology Regulatory Authority shall promptly report the
16 conclusions of such investigations to the Commission. Once
17 an investigation has been completed, and pending the
18 outcome of said investigation, the psychologist may change
19 his/her Home State licensure. The Commission shall
20 promptly notify the new Home State of any such decisions as
21 provided in the Rules of the Commission. All information
22 provided to the Commission or distributed by Compact
23 States pursuant to the psychologist shall be confidential,
24 filed under seal and used for investigatory or
25 disciplinary matters. The Commission may create
26 additional rules for mandated or discretionary sharing of
27 information by Compact States.

1 ARTICLE IX. COORDINATED LICENSURE INFORMATION SYSTEM

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

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

- 13 1. Identifying information;
- 14 2. Licensure data;
- 15 3. Significant investigatory information;
- 16 4. Adverse actions against a psychologist's license;
- 17 5. An indicator that a psychologist's Authority to Practice
18 Interjurisdictional Telepsychology and/or Temporary
19 Authorization to Practice is revoked;
- 20 6. Non-confidential information related to alternative
21 program participation information;
- 22 7. Any denial of application for licensure, and the reasons
23 for such denial; and
- 24 8. Other information which may facilitate the administration
25 of this Compact, as determined by the Rules of the
26 Commission.

27 C. The Coordinated Database administrator shall promptly notify

1 all Compact States of any adverse action taken against, or
2 significant investigative information on, any licensee in a
3 Compact State.

4 D. Compact States reporting information to the Coordinated
5 Database may designate information that may not be shared with
6 the public without the express permission of the Compact State
7 reporting the information.

8 E. Any information submitted to the Coordinated Database that is
9 subsequently required to be expunged by the law of the Compact
10 State reporting the information shall be removed from the
11 Coordinated Database.

12 ARTICLE X. ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL
13 COMPACT COMMISSION

14 A. The Compact States hereby create and establish a joint public
15 agency known as the Psychology Interjurisdictional Compact
16 Commission.

17 1. The Commission is a body politic and an instrumentality of
18 the Compact States.

19 2. Venue is proper and judicial proceedings by or against the
20 Commission shall be brought solely and exclusively in a
21 court of competent jurisdiction where the principal office
22 of the Commission is located. The Commission may waive
23 venue and jurisdictional defenses to the extent it adopts
24 or consents to participate in alternative dispute
25 resolution proceedings.

26 3. Nothing in this Compact shall be construed to be a waiver
27 of sovereign immunity.

1 B. Membership, Voting, and Meetings

2 1. The Commission shall consist of one voting representative
3 appointed by each Compact State who shall serve as that
4 state's Commissioner. The State Psychology Regulatory
5 Authority shall appoint its delegate. This delegate shall
6 be empowered to act on behalf of the Compact State. This
7 delegate shall be limited to:

8 a. Executive Director, Executive Secretary or similar
9 executive;

10 b. Current member of the State Psychology Regulatory
11 Authority of a Compact State; OR

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

14 2. Any Commissioner may be removed or suspended from office as
15 provided by the law of the state from which the
16 Commissioner is appointed. Any vacancy occurring in the
17 Commission shall be filled in accordance with the laws of
18 the Compact State in which the vacancy exists.

19 3. Each Commissioner shall be entitled to one (1) vote with
20 regard to the promulgation of Rules and creation of Bylaws
21 and shall otherwise have an opportunity to participate in
22 the business and affairs of the Commission. A Commissioner
23 shall vote in person or by such other means as provided in
24 the Bylaws. The Bylaws may provide for Commissioners'
25 participation in meetings by telephone or other means of
26 communication.

27 4. The Commission shall meet at least once during each

1 calendar year. Additional meetings shall be held as set
2 forth in the Bylaws.

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

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

8 a. Non-compliance of a Compact State with its obligations
9 under the Compact;

10 b. The employment, compensation, discipline or other
11 personnel matters, practices or procedures related to
12 specific employees or other matters related to the
13 Commission's internal personnel practices and
14 procedures;

15 c. Current, threatened, or reasonably anticipated
16 litigation against the Commission;

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

19 e. Accusation against any person of a crime or formally
20 censuring any person;

21 f. Disclosure of trade secrets or commercial or financial
22 information which is privileged or confidential;

23 g. Disclosure of information of a personal nature where
24 disclosure would constitute a clearly unwarranted
25 invasion of personal privacy;

26 h. Disclosure of investigatory records compiled for law
27 enforcement purposes;

1 i. Disclosure of information related to any
2 investigatory reports prepared by or on behalf of or
3 for use of the Commission or other committee charged
4 with responsibility for investigation or
5 determination of compliance issues pursuant to the
6 Compact; or

7 j. Matters specifically exempted from disclosure by
8 federal and state statute.

9 7. If a meeting, or portion of a meeting, is closed pursuant
10 to this provision, the Commission's legal counsel or
11 designee shall certify that the meeting may be closed and
12 shall reference each relevant exempting provision. The
13 Commission shall keep minutes which fully and clearly
14 describe all matters discussed in a meeting and shall
15 provide a full and accurate summary of actions taken, of
16 any person participating in the meeting, and the reasons
17 therefore, including a description of the views expressed.
18 All documents considered in connection with an action
19 shall be identified in such minutes. All minutes and
20 documents of a closed meeting shall remain under seal,
21 subject to release only by a majority vote of the
22 Commission or order of a court of competent jurisdiction.

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

27 1. Establishing the fiscal year of the Commission;

- 1 2. Providing reasonable standards and procedures:
2 a. for the establishment and meetings of other
3 committees; and
4 b. governing any general or specific delegation of any
5 authority or function of the Commission;
- 6 3. Providing reasonable procedures for calling and conducting
7 meetings of the Commission, ensuring reasonable advance
8 notice of all meetings and providing an opportunity for
9 attendance of such meetings by interested parties, with
10 enumerated exceptions designed to protect the public's
11 interest, the privacy of individuals of such proceedings,
12 and proprietary information, including trade secrets. The
13 Commission may meet in closed session only after a
14 majority of the Commissioners vote to close a meeting to
15 the public in whole or in part. As soon as practicable, the
16 Commission must make public a copy of the vote to close the
17 meeting revealing the vote of each Commissioner with no
18 proxy votes allowed;
- 19 4. Establishing the titles, duties and authority and
20 reasonable procedures for the election of the officers of
21 the Commission;
- 22 5. Providing reasonable standards and procedures for the
23 establishment of the personnel policies and programs of
24 the Commission. Notwithstanding any civil service or other
25 similar law of any Compact State, the Bylaws shall
26 exclusively govern the personnel policies and programs of
27 the Commission;

1 6. Promulgating a Code of Ethics to address permissible and
2 prohibited activities of Commission members and
3 employees;

4 7. Providing a mechanism for concluding the operations of the
5 Commission and the equitable disposition of any surplus
6 funds that may exist after the termination of the Compact
7 after the payment and/or reserving of all of its debts and
8 obligations;

9 8. The Commission shall publish its Bylaws in a convenient
10 form and file a copy thereof and a copy of any amendment
11 thereto, with the appropriate agency or officer in each of
12 the Compact States;

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

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

18 D. The Commission shall have the following powers:

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

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

- 1 3. To purchase and maintain insurance and bonds;
- 2 4. To borrow, accept or contract for services of personnel,
3 including, but not limited to, employees of a Compact
4 State;
- 5 5. To hire employees, elect or appoint officers, fix
6 compensation, define duties, grant such individuals
7 appropriate authority to carry out the purposes of the
8 Compact, and to establish the Commission's personnel
9 policies and programs relating to conflicts of interest,
10 qualifications of personnel, and other related personnel
11 matters;
- 12 6. To accept any and all appropriate donations and grants of
13 money, equipment, supplies, materials and services, and to
14 receive, utilize and dispose of the same; provided that at
15 all times the Commission shall strive to avoid any
16 appearance of impropriety and/or conflict of interest;
- 17 7. To lease, purchase, accept appropriate gifts or donations
18 of, or otherwise to own, hold, improve or use, any
19 property, real, personal or mixed; provided that at all
20 times the Commission shall strive to avoid any appearance
21 of impropriety;
- 22 8. To sell, convey, mortgage, pledge, lease, exchange,
23 abandon or otherwise dispose of any property real,
24 personal or mixed;
- 25 9. To establish a budget and make expenditures;
- 26 10. To borrow money;
- 27 11. To appoint committees, including advisory committees

1 comprised of Members, State regulators, State legislators
2 or their representatives, and consumer representatives,
3 and such other interested persons as may be designated in
4 this Compact and the Bylaws;

5 12. To provide and receive information from, and to cooperate
6 with, law enforcement agencies;

7 13. To adopt and use an official seal; and

8 14. To perform such other functions as may be necessary or
9 appropriate to achieve the purposes of this Compact
10 consistent with the state regulation of psychology
11 licensure, temporary in-person, face-to-face practice and
12 telepsychology practice.

13 E. The Executive Board

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

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

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

20 b. One ex-officio, nonvoting member from the recognized
21 membership organization composed of State and
22 Provincial Psychology Regulatory Authorities.

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

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

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

2 5. The Executive Board shall have the following duties and
3 responsibilities:

4 a. Recommend to the entire Commission changes to the
5 Rules or Bylaws, changes to this Compact legislation,
6 fees paid by Compact States such as annual dues, and
7 any other applicable fees;

8 b. Ensure Compact administration services are
9 appropriately provided, contractual or otherwise;

10 c. Prepare and recommend the budget;

11 d. Maintain financial records on behalf of the
12 Commission;

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

15 f. Establish additional committees as necessary; and

16 g. Other duties as provided in Rules or Bylaws.

17 F. Financing of the Commission

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

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

24 3. The Commission may levy on and collect an annual assessment
25 from each Compact State or impose fees on other parties to
26 cover the cost of the operations and activities of the
27 Commission and its staff which must be in a total amount

1 sufficient to cover its annual budget as approved each
2 year for which revenue is not provided by other sources.
3 The aggregate annual assessment amount shall be allocated
4 based upon a formula to be determined by the Commission
5 which shall promulgate a rule binding upon all Compact
6 States.

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

12 5. The Commission shall keep accurate accounts of all
13 receipts and disbursements. The receipts and
14 disbursements of the Commission shall be subject to the
15 audit and accounting procedures established under its
16 Bylaws. However, all receipts and disbursements of funds
17 handled by the Commission shall be audited yearly by a
18 certified or licensed public accountant and the report of
19 the audit shall be included in and become part of the
20 annual report of the Commission.

21 G. Qualified Immunity, Defense, and Indemnification

22 1. The members, officers, Executive Director, employees and
23 representatives of the Commission shall be immune from
24 suit and liability, either personally or in their official
25 capacity, for any claim for damage to or loss of property
26 or personal injury or other civil liability caused by or
27 arising out of any actual or alleged act, error or omission

1 that occurred, or that the person against whom the claim is
2 made had a reasonable basis for believing occurred within
3 the scope of Commission employment, duties or
4 responsibilities; provided that nothing in this paragraph
5 shall be construed to protect any such person from suit
6 and/or liability for any damage, loss, injury or liability
7 caused by the intentional or willful or wanton misconduct
8 of that person.

9 2. The Commission shall defend any member, officer, Executive
10 Director, employee or representative of the Commission in
11 any civil action seeking to impose liability arising out
12 of any actual or alleged act, error or omission that
13 occurred within the scope of Commission employment, duties
14 or responsibilities, or that the person against whom the
15 claim is made had a reasonable basis for believing
16 occurred within the scope of Commission employment, duties
17 or responsibilities; provided that nothing herein shall be
18 construed to prohibit that person from retaining his or
19 her own counsel; and provided further, that the actual or
20 alleged act, error or omission did not result from that
21 person's intentional or willful or wanton misconduct.

22 3. The Commission shall indemnify and hold harmless any
23 member, officer, Executive Director, employee or
24 representative of the Commission for the amount of any
25 settlement or judgment obtained against that person
26 arising out of any actual or alleged act, error or omission
27 that occurred within the scope of Commission employment,

1 duties or responsibilities, or that such person had a
2 reasonable basis for believing occurred within the scope
3 of Commission employment, duties or responsibilities,
4 provided that the actual or alleged act, error or omission
5 did not result from the intentional or willful or wanton
6 misconduct of that person.

7 ARTICLE XI. RULEMAKING

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

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

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

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

22 1. On the website of the Commission; and

23 2. On the website of each Compact States' Psychology
24 Regulatory Authority or the publication in which each
25 state would otherwise publish proposed rules.

26 E. The Notice of Proposed Rulemaking shall include:

27 1. The proposed time, date, and location of the meeting in

1 which the rule will be considered and voted upon;

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

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

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

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

12 G. The Commission shall grant an opportunity for a public hearing
13 before it adopts a rule or amendment if a hearing is requested
14 by:

15 1. At least twenty-five (25) persons who submit comments
16 independently of each other;

17 2. A governmental subdivision or agency; or

18 3. A duly appointed person in an association that has having
19 at least twenty-five (25) members.

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

23 1. All persons wishing to be heard at the hearing shall notify
24 the Executive Director of the Commission or other
25 designated member in writing of their desire to appear and
26 testify at the hearing not less than five (5) business days
27 before the scheduled date of the hearing.

1 2. Hearings shall be conducted in a manner providing each
2 person who wishes to comment a fair and reasonable
3 opportunity to comment orally or in writing.

4 3. No transcript of the hearing is required, unless a written
5 request for a transcript is made, in which case the person
6 requesting the transcript shall bear the cost of producing
7 the transcript. A recording may be made in lieu of a
8 transcript under the same terms and conditions as a
9 transcript. This subsection shall not preclude the
10 Commission from making a transcript or recording of the
11 hearing if it so chooses.

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

16 I. Following the scheduled hearing date, or by the close of
17 business on the scheduled hearing date if the hearing was not
18 held, the Commission shall consider all written and oral
19 comments received.

20 J. The Commission shall, by majority vote of all members, take
21 final action on the proposed rule and shall determine the
22 effective date of the rule, if any, based on the rulemaking
23 record and the full text of the rule.

24 K. If no written notice of intent to attend the public hearing by
25 interested parties is received, the Commission may proceed
26 with promulgation of the proposed rule without a public
27 hearing.

1 L. Upon determination that an emergency exists, the Commission may
2 consider and adopt an emergency rule without prior notice,
3 opportunity for comment, or hearing, provided that the usual
4 rulemaking procedures provided in the Compact and in this
5 section shall be retroactively applied to the rule as soon as
6 reasonably possible, in no event later than ninety (90) days
7 after the effective date of the rule. For the purposes of this
8 provision, an emergency rule is one that must be adopted
9 immediately in order to:

- 10 1. Meet an imminent threat to public health, safety, or
11 welfare;
12 2. Prevent a loss of Commission or Compact State funds;
13 3. Meet a deadline for the promulgation of an administrative
14 rule that is established by federal law or rule; or
15 4. Protect public health and safety.

16 M. The Commission or an authorized committee of the Commission may
17 direct revisions to a previously adopted rule or amendment for
18 purposes of correcting typographical errors, errors in format,
19 errors in consistency, or grammatical errors. Public notice of
20 any revisions shall be posted on the website of the Commission.
21 The revision shall be subject to challenge by any person for a
22 period of thirty (30) days after posting. The revision may be
23 challenged only on grounds that the revision results in a
24 material change to a rule. A challenge shall be made in
25 writing, and delivered to the Chair of the Commission prior to
26 the end of the notice period. If no challenge is made, the
27 revision will take effect without further action. If the

1 revision is challenged, the revision may not take effect
2 without the approval of the Commission.

3 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

4 A. Oversight

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

11 2. All courts shall take judicial notice of the Compact and
12 the rules in any judicial or administrative proceeding in
13 a Compact State pertaining to the subject matter of this
14 Compact which may affect the powers, responsibilities or
15 actions of the Commission.

16 3. The Commission shall be entitled to receive service of
17 process in any such proceeding, and shall have standing to
18 intervene in such a proceeding for all purposes. Failure
19 to provide service of process to the Commission shall
20 render a judgment or order void as to the Commission, this
21 Compact or promulgated rules.

22 B. Default, Technical Assistance, and Termination

23 1. If the Commission determines that a Compact State has
24 defaulted in the performance of its obligations or
25 responsibilities under this Compact or the promulgated
26 rules, the Commission shall:

27 a. Provide written notice to the defaulting state and

1 other Compact States of the nature of the default, the
2 proposed means of remedying the default and/or any
3 other action to be taken by the Commission; and

4 b. Provide remedial training and specific technical
5 assistance regarding the default.

6 2. If a state in default fails to remedy the default, the
7 defaulting state may be terminated from the Compact upon
8 an affirmative vote of a majority of the Compact States,
9 and all rights, privileges and benefits conferred by this
10 Compact shall be terminated on the effective date of
11 termination. A remedy of the default does not relieve the
12 offending state of obligations or liabilities incurred
13 during the period of default.

14 3. Termination of membership in the Compact shall be imposed
15 only after all other means of securing compliance have
16 been exhausted. Notice of intent to suspend or terminate
17 shall be submitted by the Commission to the Governor, the
18 majority and minority leaders of the defaulting state's
19 legislature, and each of the Compact States.

20 4. A Compact State which has been terminated is responsible
21 for all assessments, obligations and liabilities incurred
22 through the effective date of termination, including
23 obligations which extend beyond the effective date of
24 termination.

25 5. The Commission shall not bear any costs incurred by the
26 state which is found to be in default or which has been
27 terminated from the Compact, unless agreed upon in writing

1 between the Commission and the defaulting state.

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

8 C. Dispute Resolution

9 1. Upon request by a Compact State, the Commission shall
10 attempt to resolve disputes related to the Compact which
11 arise among Compact States and between Compact and
12 Non-Compact States.

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

16 D. Enforcement

17 1. The Commission, in the reasonable exercise of its
18 discretion, shall enforce the provisions and Rules of this
19 Compact.

20 2. By majority vote, the Commission may initiate legal action
21 in the United States District Court for the State of
22 Georgia or the federal district where the Compact has its
23 principal offices against a Compact State in default to
24 enforce compliance with the provisions of the Compact and
25 its promulgated Rules and Bylaws. The relief sought may
26 include both injunctive relief and damages. In the event
27 judicial enforcement is necessary, the prevailing member

1 shall be awarded all costs of such litigation, including
2 reasonable attorney's fees.

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

6 ARTICLE XIII. DATE OF IMPLEMENTATION OF THE PSYCHOLOGY
7 INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES,
8 WITHDRAWAL, AND AMENDMENTS

9 A. The Compact shall come into effect on the date on which the
10 Compact is enacted into law in the seventh Compact State. The
11 provisions which become effective at that time shall be limited
12 to the powers granted to the Commission relating to assembly
13 and the promulgation of rules. Thereafter, the Commission
14 shall meet and exercise rulemaking powers necessary to the
15 implementation and administration of the Compact.

16 B. Any state which joins the Compact subsequent to the
17 Commission's initial adoption of the rules shall be subject to
18 the rules as they exist on the date on which the Compact becomes
19 law in that state. Any rule which has been previously adopted
20 by the Commission shall have the full force and effect of law on
21 the day the Compact becomes law in that state.

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

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

26 2. Withdrawal shall not affect the continuing requirement of
27 the withdrawing State's Psychology Regulatory Authority

1 to comply with the investigative and adverse action
2 reporting requirements of this act prior to the effective
3 date of withdrawal.

4 D. Nothing contained in this Compact shall be construed to
5 invalidate or prevent any psychology licensure agreement or
6 other cooperative arrangement between a Compact State and a
7 Non-Compact State which does not conflict with the provisions
8 of this Compact.

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

13 ARTICLE XIV. CONSTRUCTION AND SEVERABILITY

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

18 Sec. 501.602. RULES ADOPTED UNDER COMPACT. The Psychology
19 Interjurisdictional Compact Commission established under the
20 Psychology Interjurisdictional Compact under Section 501.601 may
21 not adopt rules that alter the requirements or scope of practice of
22 a license issued under Chapter 501. Any rule adopted by the
23 Psychology Interjurisdictional Compact Commission that purports to
24 alter the requirements or scope of practice of a license issued
25 under Chapter 501 is not enforceable.

26 Sec. 501.603. DISCLOSURE OF PERSONAL INFORMATION. (a) In
27 reporting information to the Coordinated Licensure Information

1 System under Article IX of the Psychology Interjurisdictional
2 Compact, the executive council may disclose personally
3 identifiable information about a person who holds a license under
4 this chapter, including the person's social security number.

5 (b) The Coordinated Licensure Information System may not
6 share personally identifiable information with a state that is not
7 a party to the compact unless the state agrees to not disclose that
8 information to any other person.

9 SECTION 2.029. Sections 502.002(2) and (5), Occupations
10 Code, are amended to read as follows:

11 (2) "Executive council" ["Commissioner"] means the
12 Texas Behavioral Health Executive Council [~~commissioner of state~~
13 ~~health services~~].

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

18 SECTION 2.030. The heading to Section 502.053, Occupations
19 Code, is amended to read as follows:

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

21 SECTION 2.031. Sections 502.053(b) and (c), Occupations
22 Code, are amended to read as follows:

23 (b) A person may not be a member of the board [~~and may not be~~
24 ~~a department employee employed in a "bona fide executive,~~
25 ~~administrative, or professional capacity," as that phrase is used~~
26 ~~for purposes of establishing an exemption to the overtime~~
27 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~

1 ~~U.S.C. Section 201 et seq.)~~] if:

2 (1) the person is an officer, employee, or paid
3 consultant of a Texas trade association in the field of health
4 services; or

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

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

13 SECTION 2.032. Section 502.056(c), Occupations Code, is
14 amended to read as follows:

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

25 SECTION 2.033. Section 502.059, Occupations Code, is
26 amended by amending Subsection (b) and adding Subsection (d) to
27 read as follows:

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

3 (1) the law governing board operations [~~this chapter~~];
4 (2) the programs, [operated by the board,
5 [~~(3) the role and~~] functions, [of the board,
6 [~~(4) the~~] rules, and [of the board, with an emphasis on
7 the rules that relate to disciplinary and investigatory authority,

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

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

11 (4) [~~(6)~~] the results of the most recent formal audit
12 of the board;

13 (5) [~~(7)~~] the requirements of:

14 (A) laws relating to open meetings, public
15 information, administrative procedure, and disclosing conflicts
16 [conflict] of interest; and

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

19 (6) [~~(8)~~] any applicable ethics policies adopted by
20 the board or the Texas Ethics Commission.

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

1 SECTION 2.034. The heading to Subchapter D, Chapter 502,
2 Occupations Code, is amended to read as follows:

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

4 SECTION 2.035. Section 502.151, Occupations Code, is
5 amended to read as follows:

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

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

10 (2) adopt a code of professional ethics for license
11 holders.

12 SECTION 2.036. Subchapter D, Chapter 502, Occupations Code,
13 is amended by adding Section 502.1515 to read as follows:

14 Sec. 502.1515. BOARD DUTIES. The board shall propose to the
15 executive council:

16 (1) rules regarding:

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

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

22 (C) continuing education requirements for
23 license holders; and

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

26 SECTION 2.037. Section 502.155, Occupations Code, is
27 amended to read as follows:

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

3 (1) determine the times and places for licensing
4 examinations;

5 (2) offer examinations at least semiannually; and

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

8 SECTION 2.038. Section 502.159, Occupations Code, is
9 amended to read as follows:

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

19 SECTION 2.039. Section 502.252, Occupations Code, is
20 amended to read as follows:

21 Sec. 502.252. LICENSE APPLICATION. (a) An applicant for a
22 license must:

23 (1) file a written application with the executive
24 council [~~board~~] on a form prescribed by the executive council
25 [~~board~~]; and

26 (2) pay the appropriate application fee.

27 (b) To qualify for a license as a licensed marriage and

1 family therapist associate, a person must:

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

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

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

8 (4) hold a master's or doctoral degree in marriage and
9 family therapy or in a related mental health field with coursework
10 and training determined by the executive council [~~board~~] to be
11 substantially equivalent to a graduate degree in marriage and
12 family therapy from a regionally accredited institution of higher
13 education or an institution of higher education approved by the
14 executive council [~~board~~];

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

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

18 (6) [~~(7)~~] not use drugs or alcohol to an extent that
19 affects the applicant's professional competency;

20 (7) [~~(8)~~] not have had a license or certification
21 revoked by a licensing agency or by a certifying professional
22 organization; and

23 (8) [~~(9)~~] not have engaged in fraud or deceit in
24 applying for a license under this chapter.

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

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

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

5 ~~[(A)]~~ at least 1,500 hours ~~[consist]~~ of direct
6 clinical services, including a minimum number of ~~[, and~~

7 ~~[(B) at least 750]~~ hours providing ~~[consist of]~~
8 direct clinical services to couples or families as required by
9 executive council rule; and

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

14 SECTION 2.040. Sections 502.253(a), (b), and (c),
15 Occupations Code, are amended to read as follows:

16 (a) The executive council ~~[board]~~ shall investigate each
17 application and any other information submitted by the applicant.

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

23 (c) An applicant for a license as a licensed marriage and
24 family therapist associate is eligible to take the examination if
25 the applicant:

26 (1) is enrolled in a graduate internship described by
27 Section 502.252(b)(2) and provides proof to the executive council

1 ~~[board]~~ that the applicant is a student in good standing in an
2 educational program described by Section 502.252(b)(4); or

3 (2) has completed the internship described by
4 Subdivision (1).

5 SECTION 2.041. Sections 502.254(b) and (d), Occupations
6 Code, are amended to read as follows:

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

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

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

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

17 SECTION 2.042. Section 502.2541, Occupations Code, is
18 amended to read as follows:

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

25 (b) The executive council ~~[board]~~ shall adopt rules to
26 implement this section, including rules related to the development
27 and administration of the examination, examination fees,

1 guidelines for reexamination, grading the examination, and
2 providing notice of examination results.

3 SECTION 2.043. Section 502.2545, Occupations Code, is
4 amended to read as follows:

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

10 (1) is a provisional license holder under Section
11 502.259 and the executive council [~~board~~] determines that the
12 applicant possesses sufficient education and professional
13 experience to receive a license without further examination; or

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

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

24 SECTION 2.044. Section 502.257, Occupations Code, is
25 amended to read as follows:

26 Sec. 502.257. ISSUANCE OF LICENSE. The executive council
27 [~~board~~] shall issue a license as a licensed marriage and family

1 therapist associate or licensed marriage and family therapist, as
2 appropriate, to an applicant who:

- 3 (1) complies with the requirements of this chapter;
- 4 (2) passes the licensing examination, unless the
5 executive council [~~board~~] exempts the person from the examination
6 requirement; and
- 7 (3) pays the required fees.

8 SECTION 2.045. Section 502.258(a), Occupations Code, is
9 amended to read as follows:

10 (a) The executive council [~~board~~] by rule may provide for
11 the issuance of a temporary license.

12 SECTION 2.046. Section 502.259, Occupations Code, is
13 amended to read as follows:

14 Sec. 502.259. PROVISIONAL LICENSE. (a) The executive
15 council [~~board~~] may grant a provisional license to practice as a
16 marriage and family therapist in this state without examination to
17 an applicant who is licensed or otherwise registered as a marriage
18 and family therapist by another state or jurisdiction if the
19 requirements to be licensed or registered in the other state or
20 jurisdiction were, on the date the person was licensed or
21 registered, substantially equal to the requirements of this
22 chapter.

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

- 24 (1) be licensed in good standing as a marriage and
25 family therapist in another state or jurisdiction that has
26 licensing requirements that are substantially equal to the
27 requirements of this chapter;

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

2 (A) is recognized by the executive council
3 [~~board~~]; and

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

5 (3) be sponsored by a person licensed by the executive
6 council [~~board~~] with whom the provisional license holder may
7 practice under this section.

8 (c) An applicant may be excused from the requirement of
9 Subsection (b)(3) if the executive council [~~board~~] determines that
10 compliance with that subsection constitutes a hardship to the
11 applicant.

12 (d) A provisional license is valid until the date the
13 executive council [~~board~~] approves or denies the provisional
14 license holder's application for a license under Section 502.257.
15 The executive council [~~board~~] shall complete processing of a
16 provisional license holder's application for a license not later
17 than the 180th day after the date the provisional license is issued.
18 The executive council [~~board~~] may extend this period to allow for
19 the receipt and tabulation of pending examination results.

20 (e) The executive council [~~board~~] shall issue a license
21 under Section 502.257 to a provisional license holder if:

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

24 (2) the executive council [~~board~~] verifies that the
25 provisional license holder satisfies the academic and experience
26 requirements of this chapter; and

27 (3) the provisional license holder satisfies any other

1 license requirements under this chapter.

2 SECTION 2.047. Sections 502.260(a), (b), and (d),
3 Occupations Code, are amended to read as follows:

4 (a) The executive council [~~board~~] may place a license
5 holder's license under this chapter on inactive status if the
6 holder is not actively engaged in the practice of marriage and
7 family therapy and the holder submits a written request to the
8 executive council [~~board~~] before the expiration of the holder's
9 license.

10 (b) The executive council [~~board~~] shall maintain a list of
11 each license holder whose license is on inactive status.

12 (d) The executive council [~~board~~] shall remove the license
13 holder's license from inactive status if the person:

14 (1) notifies the executive council [~~board~~] in writing
15 that the person intends to return to active practice;

16 (2) pays an administrative fee; and

17 (3) complies with educational or other requirements
18 the executive council [~~board~~] adopts by rule.

19 SECTION 2.048. Section 502.261(b), Occupations Code, is
20 amended to read as follows:

21 (b) Each license holder shall notify the executive council
22 [~~board~~] of the license holder's current address.

23 SECTION 2.049. Section 502.301(a), Occupations Code, is
24 amended to read as follows:

25 (a) A license issued under this chapter is subject to
26 biennial renewal. The executive council [~~board~~] shall adopt a
27 system under which licenses expire on various dates during the

1 year.

2 SECTION 2.050. The heading to Subchapter H, Chapter 502,
3 Occupations Code, is amended to read as follows:

4 SUBCHAPTER H. DISCIPLINARY ACTIONS [~~AND PROCEDURES~~]

5 SECTION 2.051. Section 502.351, Occupations Code, is
6 amended to read as follows:

7 Sec. 502.351. GROUNDS FOR DISCIPLINARY ACTIONS. The
8 executive council [board] shall take disciplinary action under
9 Subchapter G, Chapter 507, against [reprimand] a license holder
10 who [~~, place on probation a person whose license has been suspended,~~
11 ~~refuse to renew a person's license, or suspend or revoke a holder's~~
12 ~~license if the person]~~:

13 (1) is convicted of a misdemeanor involving moral
14 turpitude or a felony;

15 (2) obtains or attempts to obtain a license by fraud or
16 deception;

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

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

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

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

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

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

1 (9) violates this chapter or a rule or code of ethics
2 adopted under this chapter; or

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

5 SECTION 2.052. Section 502.357, Occupations Code, is
6 amended to read as follows:

7 Sec. 502.357. GROUNDS FOR REFUSING RENEWAL. The executive
8 council [~~board~~] may refuse to renew the license of a person who
9 fails to pay an administrative penalty imposed under Subchapter H,
10 Chapter 507, [~~±~~] unless enforcement of the penalty is stayed or a
11 court has ordered that the administrative penalty is not owed.

12 SECTION 2.053. Section 502.358, Occupations Code, is
13 amended to read as follows:

14 Sec. 502.358. REFUND. (a) Subject to Subsection (b), the
15 executive council [~~board~~] may order a license holder to pay a refund
16 to a consumer as provided in an agreement resulting from an informal
17 settlement conference instead of or in addition to imposing an
18 administrative penalty under Subchapter H, Chapter 507 [~~this~~
19 ~~chapter~~].

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

26 SECTION 2.054. The heading to Subchapter J, Chapter 502,
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER J. CRIMINAL PENALTY [~~OTHER PENALTIES AND ENFORCEMENT~~
2 PROVISIONS]

3 SECTION 2.055. Section 503.002(2), Occupations Code, is
4 amended to read as follows:

5 (2) "Executive council" [~~"Department"~~] means the
6 Texas Behavioral Health Executive Council [~~Department of State~~
7 ~~Health Services~~].

8 SECTION 2.056. The heading to Section 503.104, Occupations
9 Code, is amended to read as follows:

10 Sec. 503.104. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

11 SECTION 2.057. Sections 503.104(b) and (c), Occupations
12 Code, are amended to read as follows:

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

19 (1) the person is an officer, employee, manager, or
20 paid consultant of a Texas trade association in the field of health
21 care; or

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

25 (c) A person may not be a member of the board [~~or act as the~~
26 ~~general counsel to the board or the department~~] if the person is
27 required to register as a lobbyist under Chapter 305, Government

1 Code, because of the person's activities for compensation on behalf
2 of a profession related to the operation of the board.

3 SECTION 2.058. Section 503.107(c), Occupations Code, is
4 amended to read as follows:

5 (c) If the executive director of the executive council has
6 knowledge that a potential ground for removal exists, the executive
7 director shall notify the presiding officer of the board of the
8 potential ground. The presiding officer shall then notify the
9 governor and the attorney general that a potential ground for
10 removal exists. If the potential ground for removal involves the
11 presiding officer, the executive director shall notify the next
12 highest ranking officer of the board, who shall then notify the
13 governor and attorney general that a potential ground for removal
14 exists.

15 SECTION 2.059. Section 503.110, Occupations Code, is
16 amended by amending Subsection (b) and adding Subsection (d) to
17 read as follows:

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

- 20 (1) the law governing board operations;
21 (2) [this chapter and] the [board's] programs,
22 functions, rules, and budget of the board;
23 (3) the scope of and limitations on the rulemaking
24 authority of the board;
25 (4) [+2] the results of the most recent formal audit
26 of the board;
27 (5) [+3] the requirements of:

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

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

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

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

15 SECTION 2.060. The heading to Subchapter E, Chapter 503,
16 Occupations Code, is amended to read as follows:

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

18 SECTION 2.061. Section 503.201, Occupations Code, is
19 amended to read as follows:

20 Sec. 503.201. GENERAL POWERS AND DUTIES OF EXECUTIVE
21 COUNCIL. (a) The executive council [~~board~~] shall:

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

24 (2) examine for, deny, approve, issue, revoke,
25 suspend, suspend on an emergency basis, place on probation, and
26 renew the license of an applicant or license holder under this
27 chapter;

1 (3) adopt and publish a code of ethics; and
2 (4) by rule adopt a list of authorized counseling
3 methods or practices that a license holder may undertake or
4 perform[~~, and~~
5 ~~[(5) adopt an official seal].~~

6 (b) The executive council [~~board~~] may request and shall
7 receive the assistance of a state educational institution or other
8 state agency.

9 SECTION 2.062. Subchapter E, Chapter 503, Occupations Code,
10 is amended by adding Section 503.2015 to read as follows:

11 Sec. 503.2015. BOARD DUTIES. The board shall propose to the
12 executive council:

13 (1) rules regarding:

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

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

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

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

23 SECTION 2.063. Section 503.302, Occupations Code, is
24 amended to read as follows:

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

27 (1) is at least 18 years old;

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

3 (3) has successfully completed a graduate degree at a
4 regionally accredited institution of higher education and the
5 number of graduate semester hours required by executive council
6 ~~[board]~~ rule, which may not be less than 48 hours and must include
7 300 clock hours of supervised practicum that:

8 (A) is primarily counseling in nature; and

9 (B) meets the specific academic course content
10 and training standards established by the executive council
11 ~~[board]~~;

12 (4) has completed the number of supervised experience
13 hours required by executive council ~~[board]~~ rule, which may not be
14 less than 3,000 hours working in a counseling setting that meets the
15 requirements established by the executive council ~~[board]~~ after the
16 completion of the graduate program described by Subdivision (3);

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

20 (6) submits an application as required by the
21 executive council ~~[board]~~, accompanied by the required application
22 fee; and

23 (7) meets any other requirement prescribed by the
24 executive council ~~[board]~~.

25 (b) ~~[(d)]~~ In establishing the standards described by
26 Subsection (a)(3)(B), the executive council ~~[board]~~ shall review
27 and consider the standards as developed by the appropriate

1 professional association.

2 (c) [~~(e)~~] The executive council [~~board~~] may require the
3 statements on a license application to be made under oath.

4 SECTION 2.064. Subchapter G, Chapter 503, Occupations Code,
5 is amended by adding Section 503.3025 to read as follows:

6 Sec. 503.3025. EXPERIENCE REQUIRED TO ACT AS SUPERVISOR.

7 The executive council shall allow a license holder who has
8 practiced as a licensed counselor in another state to count that
9 out-of-state experience toward any experience that the license
10 holder is required by executive council rule to obtain to act as a
11 supervisor under this chapter if the executive council determines
12 that the other state has license requirements substantially
13 equivalent to the requirements of this chapter.

14 SECTION 2.065. Section 503.303(b), Occupations Code, is
15 amended to read as follows:

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

22 SECTION 2.066. Section 503.304, Occupations Code, is
23 amended to read as follows:

24 Sec. 503.304. REVIEW OF APPLICATION. (a) Not later than
25 the 30th day before the examination date, after investigation of a
26 license application and review of other evidence submitted, the
27 executive council [~~board~~] shall notify the applicant that the

1 application and evidence submitted are:

2 (1) satisfactory and accepted; or

3 (2) unsatisfactory and rejected.

4 (b) If the executive council [~~board~~] rejects an
5 application, the executive council [~~board~~] shall state in the
6 notice the reasons for the rejection.

7 SECTION 2.067. Section 503.305, Occupations Code, is
8 amended to read as follows:

9 Sec. 503.305. LICENSE EXAMINATION. (a) The executive
10 council [~~board~~] shall administer examinations to determine the
11 competence of qualified applicants at least twice each calendar
12 year.

13 (b) The executive council [~~board~~] shall contract with a
14 nationally recognized testing organization to develop and
15 administer a written professional counselor licensing examination
16 to applicants who apply for a license under this chapter.

17 SECTION 2.068. Section 503.3055, Occupations Code, is
18 amended to read as follows:

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

25 (b) The executive council [~~board~~] shall adopt rules to
26 implement this section, including rules related to the development
27 and administration of the examination, examination fees,

1 guidelines for reexamination, grading the examination, and
2 providing notice of examination results.

3 SECTION 2.069. Section 503.308, Occupations Code, is
4 amended to read as follows:

5 Sec. 503.308. TEMPORARY LICENSE. (a) The executive
6 council [~~board~~] by rule may provide for the issuance of a temporary
7 license. Rules adopted under this subsection must provide a time
8 limit for the period a temporary license is valid.

9 (b) The executive council [~~board~~] by rule may adopt a system
10 under which a temporary license may be issued to a person who:

11 (1) meets all of the academic requirements for
12 licensing; and

13 (2) enters into a supervisory agreement with a
14 supervisor approved by the executive council [~~board~~].

15 SECTION 2.070. Sections 503.310(a), (c), and (d),
16 Occupations Code, are amended to read as follows:

17 (a) On application and payment of applicable fees, the
18 executive council [~~board~~] may issue a provisional license to a
19 person who holds a license as a counselor or art therapist issued by
20 another state or by a jurisdiction acceptable to the executive
21 council [~~board~~].

22 (c) An applicant is not required to comply with Subsection
23 (b)(3) if the executive council [~~board~~] determines that compliance
24 with that subsection is a hardship to the applicant.

25 (d) A provisional license is valid until the date the
26 executive council [~~board~~] approves or denies the provisional
27 license holder's application for a license under Section 503.311.

1 SECTION 2.071. Section 503.311, Occupations Code, is
2 amended to read as follows:

3 Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
4 HOLDER. (a) The executive council [~~board~~] shall issue a license to
5 the holder of a provisional license who applies for a license if:

6 (1) the executive council [~~board~~] verifies that the
7 applicant has the academic and experience requirements for a
8 regular license under this chapter; and

9 (2) the applicant satisfies any other license
10 requirements under this chapter.

11 (b) The executive council [~~board~~] must complete the
12 processing of a provisional license holder's application for a
13 license not later than the later of:

14 (1) the 180th day after the date the provisional
15 license is issued; or

16 (2) the date licenses are issued following completion
17 of the next licensing and jurisprudence examinations
18 [~~examination~~].

19 SECTION 2.072. Sections 503.312(a) and (c), Occupations
20 Code, are amended to read as follows:

21 (a) On request of a person licensed under this chapter, the
22 executive council [~~board~~] shall place the person's license on
23 inactive status.

24 (c) A person whose license is inactive may apply to
25 reactivate the license. The executive council [~~board~~] shall
26 reactivate the license if the applicant:

27 (1) pays a license fee;

1 (2) is not in violation of this chapter when the
2 applicant applies to reactivate the license; and

3 (3) fulfills the requirements provided by executive
4 council [~~board~~] rule for the holder of an inactive license.

5 SECTION 2.073. Section 503.313, Occupations Code, is
6 amended to read as follows:

7 Sec. 503.313. RETIREMENT STATUS. The executive council
8 [~~board~~] by rule may adopt a system for placing a person licensed
9 under this chapter on retirement status.

10 SECTION 2.074. Section 503.314(b), Occupations Code, is
11 amended to read as follows:

12 (b) A license certificate issued by the executive council
13 [~~board~~] is the property of the executive council [~~board~~] and must be
14 surrendered on demand.

15 SECTION 2.075. Section 503.351, Occupations Code, is
16 amended to read as follows:

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

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

21 (2) fulfills the continuing education requirements
22 established by the executive council [~~board~~].

23 SECTION 2.076. Section 503.352, Occupations Code, is
24 amended to read as follows:

25 Sec. 503.352. LICENSE EXPIRATION DATE. The executive
26 council [~~board~~] shall adopt a system under which licenses expire on
27 various dates during the year. On renewal of the license on the

1 expiration date, the total license renewal fee is payable.

2 SECTION 2.077. Section 503.353, Occupations Code, is
3 amended to read as follows:

4 Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Not later than
5 the 30th day before the expiration date of a person's license, the
6 executive council [~~board~~] shall send written notice of the
7 impending license expiration to the person at the person's last
8 known address according to the executive council's [~~board's~~]
9 records.

10 SECTION 2.078. The heading to Subchapter I, Chapter 503,
11 Occupations Code, is amended to read as follows:

12 SUBCHAPTER I. DISCIPLINARY ACTIONS [~~PROCEDURES~~]

13 SECTION 2.079. Section 503.401(a), Occupations Code, is
14 amended to read as follows:

15 (a) A person licensed under this chapter is subject to
16 disciplinary action under Subchapter G, Chapter 507, [~~this section~~]
17 if the person:

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

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

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

24 (4) directly or indirectly offers to pay or agrees to
25 accept remuneration to or from any person for securing or
26 soliciting a patient or patronage.

27 SECTION 2.080. Section 503.407, Occupations Code, is

1 amended to read as follows:

2 Sec. 503.407. REFUND. (a) Subject to Subsection (b), the
3 executive council [~~board~~] may order a license holder to pay a refund
4 to a consumer as provided in an agreement resulting from an informal
5 settlement conference instead of or in addition to imposing an
6 administrative penalty under Subchapter H, Chapter 507 [~~this~~
7 ~~chapter~~].

8 (b) The amount of a refund ordered as provided in an
9 agreement resulting from an informal settlement conference may not
10 exceed the amount the consumer paid to the license holder for a
11 service regulated by this chapter. The executive council [~~board~~]
12 may not require payment of other damages or estimate harm in a
13 refund order.

14 SECTION 2.081. Section 503.453, Occupations Code, is
15 amended to read as follows:

16 Sec. 503.453. REPORT OF ALLEGED OFFENSE. The executive
17 council [~~board~~] shall notify the appropriate prosecuting attorney
18 of an alleged offense committed under this chapter.

19 SECTION 2.082. Section 505.002, Occupations Code, is
20 amended to read as follows:

21 Sec. 505.002. DEFINITIONS. In this chapter:

22 (1) [~~(2)~~] "Board" means the Texas State Board of
23 Social Worker Examiners.

24 (2) [~~(3)~~] "Council on Social Work Education" means the
25 national organization that is primarily responsible for the
26 accreditation of schools of social work in the United States or its
27 successor approved by the executive council [~~board~~].

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

3 (4) [~~"Department" means the Department of State Health~~
4 ~~Services.~~

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

8 (5) [~~(4-b)~~] "Licensed clinical social worker" means a
9 person who holds a clinical social worker license issued [~~by the~~
10 ~~board~~] under this chapter.

11 (6) [~~(5)~~] "Licensed master social worker" means a
12 person who holds a master social worker license issued [~~by the~~
13 ~~board~~] under this chapter.

14 (7) [~~(6)~~] "Licensed social worker" means a person who
15 holds a social worker license issued [~~by the board~~] under this
16 chapter.

17 (8) [~~(9)~~] "Social worker" means a person who holds any
18 license issued [~~by the board~~] under this chapter.

19 SECTION 2.083. Section 505.102(b), Occupations Code, is
20 amended to read as follows:

21 (b) A person is not eligible for appointment as a public
22 member of the board if:

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

25 (2) the person's spouse is registered, certified, or
26 licensed by an occupational regulatory agency in the field of
27 mental health; or

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

2 (A) is employed by or participates in the
3 management of a business entity or other organization regulated by
4 or receiving funds from the board or executive council
5 ~~[department]~~;

6 (B) owns or controls, directly or indirectly,
7 more than a 10 percent interest in a business entity or other
8 organization regulated by or receiving funds from the board or
9 executive council ~~[department]~~; or

10 (C) uses or receives a substantial amount of
11 tangible goods, services, or funds from the board or executive
12 council ~~[department]~~, other than compensation or reimbursement
13 authorized by law for board membership, attendance, or expenses.

14 SECTION 2.084. The heading to Section 505.103, Occupations
15 Code, is amended to read as follows:

16 Sec. 505.103. MEMBERSHIP ~~[AND EMPLOYEE]~~ RESTRICTIONS.

17 SECTION 2.085. Sections 505.103(b) and (c), Occupations
18 Code, are amended to read as follows:

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

25 (1) the person is an officer, employee, or paid
26 consultant of a Texas trade association in the field of health care;
27 or

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

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

9 SECTION 2.086. Section 505.109, Occupations Code, is
10 amended by amending Subsection (b) and adding Subsection (d) to
11 read as follows:

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

14 (1) the law governing [~~legislation that created the~~
15 board operations;

16 (2) [~~and~~] the [~~board's~~] programs, functions, rules,
17 and budget of the board;

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

20 (4) [~~(2)~~] the results of the most recent formal audit
21 of the board;

22 (5) [~~(3)~~] the requirements of:

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

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

1 (6) [~~(4)~~] any applicable ethics policies adopted by
2 the board or the Texas Ethics Commission.

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

10 SECTION 2.087. Section 505.201, Occupations Code, is
11 amended to read as follows:

12 Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY
13 OF EXECUTIVE COUNCIL. (a) The executive council [~~board~~] may:

14 (1) adopt and enforce rules necessary to perform the
15 executive council's [~~board's~~] duties under this chapter;

16 (2) establish standards of conduct and ethics for
17 license holders; and

18 (3) ensure strict compliance with and enforcement of
19 this chapter.

20 (b) [~~In adopting rules under this section, the board shall~~
21 ~~consider the rules and procedures of the department. The board~~
22 ~~shall adopt procedural rules, which may not be inconsistent with~~
23 ~~similar rules and procedures of the department.~~

24 [~~(e)~~] The executive council [~~board~~] by rule may define a
25 term not defined under Section 505.002 if a definition is necessary
26 to administer or enforce this chapter.

27 (c) [~~(e)~~] For each type of license issued under this

1 chapter, the executive council [~~board~~] shall establish:

- 2 (1) the minimum eligibility requirements;
- 3 (2) educational requirements;
- 4 (3) professional experience criteria;
- 5 (4) supervision requirements; and
- 6 (5) independent practice criteria.

7 (d) [~~(f)~~] The executive council [~~board~~] shall establish
8 procedures for recognition of independent practice.

9 SECTION 2.088. Subchapter D, Chapter 505, Occupations Code,
10 is amended by adding Section 505.2015 to read as follows:

11 Sec. 505.2015. BOARD DUTIES. The board shall propose to the
12 executive council:

13 (1) rules regarding:

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

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

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

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

25 SECTION 2.089. Section 505.206, Occupations Code, is
26 amended to read as follows:

27 Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. The

1 executive council [~~board~~] shall publish a roster of persons
2 recognized under Section 505.307 as qualified for the independent
3 practice of social work.

4 SECTION 2.090. Section 505.301, Occupations Code, is
5 amended to read as follows:

6 Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The
7 executive council [~~board~~] may establish within the scope of social
8 work practice and this chapter specialty areas of social work for
9 license holders under this chapter who are licensed in good
10 standing if establishment of the specialty areas:

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

14 (b) The executive council [~~board~~] may not authorize a
15 specialty area within the practice of social work unless the
16 executive council [~~board~~] sets the minimum qualifications for
17 social work practice with appropriate supervision and examination,
18 as determined by the executive council [~~board~~].

19 (c) The executive council [~~board~~] may not establish a
20 specialty area of social work or a specialty area identification
21 that conflicts with a state licensing law.

22 SECTION 2.091. Section 505.302(a), Occupations Code, is
23 amended to read as follows:

24 (a) In establishing a specialty area of social work, the
25 executive council [~~board~~] shall:

- 26 (1) define the scope of the specialty;
27 (2) establish qualifications for specialty area

1 practitioners that describe, in accordance with Subdivision (1),
2 the scope of the specialty area;

3 (3) adopt rules of conduct to ensure strict compliance
4 with and enforcement of this chapter; and

5 (4) adopt rules for the suspension or revocation of an
6 order of recognition of specialty.

7 SECTION 2.092. Sections 505.303(a) and (c), Occupations
8 Code, are amended to read as follows:

9 (a) The executive council [~~board~~] shall establish a
10 specialty area for the practice of clinical social work that is
11 available only to a licensed master social worker who satisfies the
12 minimum number of years of active social work practice with
13 appropriate supervision and clinical examination, as determined by
14 the executive council [~~board~~].

15 (c) For purposes of Subchapter C, Chapter 1451, Insurance
16 Code:

17 (1) a person recognized as qualified for the
18 independent practice of clinical social work may use the title
19 "Licensed Clinical Social Worker" or another title approved by the
20 executive council [~~board~~]; and

21 (2) a [~~board-approved~~] title approved by the executive
22 council under this subsection has the same meaning and effect as the
23 title "Licensed Clinical Social Worker."

24 SECTION 2.093. Section 505.304, Occupations Code, is
25 amended to read as follows:

26 Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The
27 executive council [~~board~~] shall prescribe the name, design, and

1 content of an order of recognition of specialty.

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

3 (1) state the full name of the person recognized in the
4 order; and

5 (2) state the official specialty serial number [~~+~~
6 [~~(3) include the presiding officer's signature, and~~
7 [~~(4) include the board's official seal~~].

8 SECTION 2.094. Section 505.305, Occupations Code, is
9 amended to read as follows:

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

11 (a) The executive council [~~board~~] shall recognize a social worker
12 as qualified for the practice of a specialty area of social work if
13 the social worker satisfies the recognition requirements
14 established by the executive council [~~board~~] and the executive
15 council [~~board~~] determines that the person is worthy of the public
16 trust in performing services within the scope of the specialty
17 area.

18 (b) The executive council [~~board~~] shall issue an order of
19 recognition of specialty to a social worker who is recognized as
20 qualified for the practice of a specialty area of social work. The
21 order of recognition of specialty evidences the state's recognition
22 of the social worker as a specialty social work practitioner under
23 the identification or title designated by the executive council
24 [~~board~~].

25 SECTION 2.095. Section 505.306, Occupations Code, is
26 amended to read as follows:

27 Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA

1 IDENTIFICATION OR TITLE. If the executive council [~~board~~]
2 establishes a specialty area of social work, a social worker may not
3 use the specialty area identification or title designated by the
4 executive council [~~board~~] unless the person is recognized as
5 qualified for the practice of the specialty area under this
6 chapter.

7 SECTION 2.096. Section 505.307, Occupations Code, is
8 amended to read as follows:

9 Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM
10 QUALIFICATIONS. (a) The executive council [~~board~~] shall establish
11 procedures for recognizing a social worker qualified for the
12 independent practice of social work.

13 (b) A social worker may not be recognized as qualified for
14 the independent practice of social work unless the person satisfies
15 the requirements of social work education, experience, and
16 supervision as determined by the executive council [~~board~~].

17 SECTION 2.097. Section 505.352, Occupations Code, is
18 amended to read as follows:

19 Sec. 505.352. LICENSE APPLICATION. A person may apply for a
20 license under this chapter by submitting an application to the
21 executive council [~~board~~]. The application must:

22 (1) be on a form prescribed by the executive council
23 [~~board~~]; and

24 (2) contain statements made under oath regarding the
25 applicant's education and experience and any other information
26 required by the executive council [~~board~~] that qualifies the
27 applicant for a license.

1 SECTION 2.098. Section 505.353, Occupations Code, is
2 amended to read as follows:

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

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

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

7 (3) satisfy the education and experience requirements
8 under this section; and

9 (4) pass the licensing examination conducted by the
10 executive council [~~board~~] under Section 505.354 and the
11 jurisprudence examination conducted by the executive council
12 [~~board~~] under Section 505.3545.

13 (b) An applicant may take the licensing examination
14 conducted by the executive council [~~board~~] under Section 505.354
15 for:

16 (1) a master social worker license if the applicant
17 possesses a doctoral or master's degree in social work from a
18 graduate program that is accredited by or is in candidacy for
19 accreditation by the Council on Social Work Education;

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

24 (3) a clinical social worker license if the applicant
25 possesses a doctoral or master's degree in social work from an
26 accredited graduate program approved by the executive council
27 [~~board~~] and meets the qualifications for clinical social work

1 practice as determined by the executive council [~~board~~] under this
2 chapter.

3 (c) The executive council [~~board~~] may require an applicant
4 to submit documentary evidence of the quality, scope, and nature of
5 the applicant's experience and competence to:

6 (1) determine the credibility and acceptability of the
7 applicant's professional or technical experience or competence;
8 and

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

10 SECTION 2.099. Sections 505.354(a), (b), and (e),
11 Occupations Code, are amended to read as follows:

12 (a) The executive council [~~board~~], at least once each
13 calendar year, shall prepare and administer an examination to
14 assess an applicant's qualifications for a license under this
15 chapter.

16 (b) Each license examination shall be conducted in a manner
17 that is determined by the executive council [~~board~~] and is fair and
18 impartial to each applicant and school or system of social work.

19 (e) The executive council [~~board~~] shall have the written
20 portion of the examination, if any, validated by an independent
21 testing entity.

22 SECTION 2.100. Section 505.3545, Occupations Code, is
23 amended to read as follows:

24 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The
25 executive council [~~board~~] shall develop and administer at least
26 twice each calendar year a jurisprudence examination to determine
27 an applicant's knowledge of this chapter, [~~board~~] rules adopted

1 under this chapter, and any other applicable laws of this state
2 affecting the applicant's social work practice.

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

8 SECTION 2.101. Section 505.357(a), Occupations Code, is
9 amended to read as follows:

10 (a) The executive council [~~board~~] shall issue a temporary
11 license to an applicant who:

12 (1) has not taken the licensing examination under
13 Section 505.354 or the jurisprudence examination under Section
14 505.3545; and

15 (2) satisfies the requirements for obtaining a license
16 under this chapter other than passing the licensing and
17 jurisprudence examinations.

18 SECTION 2.102. Section 505.3575, Occupations Code, is
19 amended to read as follows:

20 Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE
21 APPLICANTS. (a) Notwithstanding any other licensing requirement
22 of this subchapter:

23 (1) the executive council [~~board~~] may not require an
24 applicant who is licensed in good standing in another state to pass
25 a licensing examination conducted by the executive council [~~board~~]
26 under Section 505.354 if an applicant with substantially equivalent
27 experience who resides in this state would not be required to take

1 the licensing examination; and

2 (2) the executive council [~~board~~] may issue a license
3 to an applicant who is currently licensed in another state to
4 independently practice social work if:

5 (A) after an assessment, the executive council
6 [~~board~~] determines that the applicant:

7 (i) demonstrates sufficient experience and
8 competence;

9 (ii) has passed the jurisprudence
10 examination conducted by the executive council [~~board~~] under
11 Section 505.3545; and

12 (iii) at the time of the application, is in
13 good standing with the regulatory agency of the state in which the
14 applicant is licensed; and

15 (B) the applicant presents to the executive
16 council [~~board~~] credentials that the applicant obtained from a
17 national accreditation organization and the executive council
18 [~~board~~] determines that the requirements to obtain the credentials
19 are sufficient to minimize any risk to public safety.

20 (b) When assessing the experience and competence of an
21 applicant for the purposes of this section, the executive council
22 [~~board~~] may take into consideration any supervision received by the
23 applicant in another state or jurisdiction if the executive council
24 [~~board~~] determines that the supervision would be taken into
25 consideration for the purpose of licensing or certification in the
26 state or jurisdiction in which the applicant received the
27 supervision.

1 SECTION 2.103. Section 505.358, Occupations Code, is
2 amended to read as follows:

3 Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply
4 for a provisional license as a social worker by paying the
5 appropriate fee and filing an application with the executive
6 council [~~board~~]. The executive council [~~board~~] may issue a
7 provisional license to a person who meets the requirements of this
8 section.

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

10 (1) be licensed or certified in good standing as a
11 social worker in another state or jurisdiction that has licensing
12 or certification requirements determined by the executive council
13 [~~board~~] to be substantially equivalent to the requirements of this
14 chapter;

15 (2) have passed a national or other examination
16 recognized by the executive council [~~board~~] relating to the
17 practice of social work; and

18 (3) be sponsored by a person licensed under this
19 chapter with whom the provisional license holder may practice
20 social work.

21 (c) An applicant is not required to comply with Subsection
22 (b)(3) if the executive council [~~board~~] determines that compliance
23 constitutes a hardship to the applicant.

24 (d) A provisional license is valid until the date the
25 executive council [~~board~~] approves or denies the provisional
26 license holder's application for a license under Section 505.359.

27 SECTION 2.104. Section 505.359, Occupations Code, is

1 amended to read as follows:

2 Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
3 HOLDER. (a) The executive council [~~board~~] shall issue an
4 appropriate license to a provisional license holder:

5 (1) who passes the licensing examination under Section
6 505.354 and the jurisprudence examination under Section 505.3545;

7 (2) for whom the executive council [~~board~~] verifies
8 that the person satisfies the academic and experience requirements
9 under Section 505.353; and

10 (3) who satisfies any other license requirements under
11 this chapter.

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

18 (c) The executive council [~~board~~] may waive a license
19 requirement for an applicant who is licensed or certified in
20 another state if this state has entered into a reciprocity
21 agreement with that state.

22 SECTION 2.105. Section 505.401(a-1), Occupations Code, is
23 amended to read as follows:

24 (a-1) The executive council [~~board~~] by rule shall adopt a
25 system under which licenses and orders of recognition of specialty
26 expire on various dates during the year.

27 SECTION 2.106. Section 505.405, Occupations Code, is

1 to evade the requirements of this chapter or a rule adopted [~~by the~~
2 ~~board~~] under this chapter;

3 (4) engaging in unethical conduct;

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

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

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

14 (8) knowingly associating with or permitting the use
15 of a license holder's name, professional services or
16 identification, or endorsement in connection with an enterprise
17 that the person knows or should have known in the exercise of
18 reasonable diligence is a trade, business, or professional practice
19 of a fraudulent, deceitful, or misleading nature;

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

24 (10) having been denied an application for a license
25 or certificate to practice social work in another jurisdiction for
26 a reason that the executive council [~~board~~] determines would be a
27 violation of this chapter or a rule adopted [~~by the board~~] under

1 this chapter;

2 (11) holding a license or certificate in another
3 jurisdiction that is suspended or revoked for a reason that the
4 executive council [~~board~~] determines would be a violation of this
5 chapter or a rule adopted [~~by the board~~] under this chapter;

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

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

12 (14) committing an act for which liability exists
13 under Chapter 81, Civil Practice and Remedies Code.

14 SECTION 2.109. Section 505.454(a), Occupations Code, is
15 amended to read as follows:

16 (a) A person who holds an expired license or order of
17 recognition of specialty under this chapter is subject to a
18 sanction under this chapter if the executive council [~~board~~]
19 determines that the person violated this chapter or a rule adopted
20 [~~by the board~~] under this chapter during the period in which the
21 license or order was valid.

22 SECTION 2.110. Section 505.458, Occupations Code, is
23 amended to read as follows:

24 Sec. 505.458. REFUND. (a) Subject to Subsection (b), the
25 executive council [~~board~~] may order a license holder to pay a refund
26 to a consumer as provided in an agreement resulting from an informal
27 settlement conference instead of or in addition to imposing an

1 administrative penalty under this chapter.

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

8 SECTION 2.111. Section 505.505, Occupations Code, is
9 amended to read as follows:

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

13 SECTION 2.112. Section 505.506, Occupations Code, is
14 amended to read as follows:

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

18 SECTION 2.113. The following provisions of the Occupations
19 Code are repealed:

- 20 (1) Section 501.002(3);
- 21 (2) Section 501.005;
- 22 (3) Subchapter C, Chapter 501;
- 23 (4) Sections 501.151(a) and (b);
- 24 (5) Section 501.152;
- 25 (6) Section 501.154;
- 26 (7) Section 501.156;
- 27 (8) Section 501.157;

- 1 (9) Section 501.160;
- 2 (10) Section 501.161;
- 3 (11) Section 501.162;
- 4 (12) Subchapter E, Chapter 501;
- 5 (13) Sections 501.252(b), (c), and (d);
- 6 (14) Section 501.254;
- 7 (15) Sections 501.256(e), (f), and (g);
- 8 (16) Section 501.2561;
- 9 (17) Section 501.257;
- 10 (18) Section 501.258;
- 11 (19) Section 501.261(b);
- 12 (20) Section 501.302;
- 13 (21) Section 501.303;
- 14 (22) Section 501.304;
- 15 (23) Section 501.402;
- 16 (24) Section 501.403;
- 17 (25) Section 501.404;
- 18 (26) Section 501.405;
- 19 (27) Section 501.406;
- 20 (28) Section 501.409;
- 21 (29) Section 501.410;
- 22 (30) Subchapter J, Chapter 501;
- 23 (31) Section 501.501;
- 24 (32) Section 501.502;
- 25 (33) Section 501.504;
- 26 (34) Section 502.002(3);
- 27 (35) Section 502.003;

- 1 (36) Subchapter C, Chapter 502;
- 2 (37) Section 502.152;
- 3 (38) Section 502.153;
- 4 (39) Section 502.154;
- 5 (40) Section 502.156;
- 6 (41) Section 502.1565;
- 7 (42) Section 502.157;
- 8 (43) Section 502.158;
- 9 (44) Section 502.161;
- 10 (45) Section 502.162;
- 11 (46) Section 502.163;
- 12 (47) Subchapter E, Chapter 502;
- 13 (48) Section 502.255;
- 14 (49) Section 502.256;
- 15 (50) Sections 502.301(b), (c), (d), and (e);
- 16 (51) Section 502.302;
- 17 (52) Section 502.303;
- 18 (53) Section 502.352;
- 19 (54) Section 502.353;
- 20 (55) Section 502.354;
- 21 (56) Section 502.355;
- 22 (57) Section 502.356;
- 23 (58) Subchapter I, Chapter 502;
- 24 (59) Section 502.451;
- 25 (60) Section 502.452;
- 26 (61) Section 502.453;
- 27 (62) Section 502.455;

- 1 (63) Section 503.005;
- 2 (64) Subchapter D, Chapter 503;
- 3 (65) Section 503.202;
- 4 (66) Section 503.203;
- 5 (67) Section 503.204;
- 6 (68) Section 503.2045;
- 7 (69) Section 503.205;
- 8 (70) Section 503.207;
- 9 (71) Section 503.209;
- 10 (72) Section 503.210;
- 11 (73) Section 503.211;
- 12 (74) Subchapter F, Chapter 503;
- 13 (75) Section 503.306;
- 14 (76) Section 503.307;
- 15 (77) Section 503.354;
- 16 (78) Section 503.355;
- 17 (79) Section 503.356;
- 18 (80) Sections 503.401(b), (c), and (d);
- 19 (81) Section 503.402;
- 20 (82) Section 503.403;
- 21 (83) Section 503.404;
- 22 (84) Section 503.405;
- 23 (85) Section 503.406;
- 24 (86) Section 503.451;
- 25 (87) Section 503.454;
- 26 (88) Subchapter K, Chapter 503;
- 27 (89) Section 505.005;

- 1 (90) Section 505.110;
- 2 (91) Subchapter C, Chapter 505;
- 3 (92) Section 505.202;
- 4 (93) Section 505.203;
- 5 (94) Section 505.204;
- 6 (95) Section 505.205;
- 7 (96) Section 505.209;
- 8 (97) Section 505.210;
- 9 (98) Section 505.211;
- 10 (99) Subchapter E, Chapter 505;
- 11 (100) Section 505.355;
- 12 (101) Section 505.356;
- 13 (102) Section 505.402;
- 14 (103) Section 505.403;
- 15 (104) Section 505.404;
- 16 (105) Section 505.452;
- 17 (106) Section 505.453;
- 18 (107) Section 505.454(b);
- 19 (108) Section 505.455;
- 20 (109) Section 505.456;
- 21 (110) Section 505.457;
- 22 (111) Section 505.501;
- 23 (112) Section 505.503;
- 24 (113) Section 505.504;
- 25 (114) Section 505.508; and
- 26 (115) Subchapter K, Chapter 505.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.001. Article 66.104(a), Code of Criminal Procedure, is amended to read as follows:

(a) The Texas Medical Board, the Texas Department of Licensing and Regulation, only with respect to a person licensed under Chapter 202, Occupations Code [~~State Board of Podiatric Medical Examiners~~], the State Board of Dental Examiners, the Texas State Board of Pharmacy, the Texas Behavioral Health Executive Council, only with respect to a person licensed under Chapter 501, Occupations Code [~~State Board of Examiners of Psychologists~~], and the State Board of Veterinary Medical Examiners shall provide to the Department of Public Safety through electronic means, magnetic tape, or disk, as specified by the department, a list of each person licensed by the respective agency, including the person's name and date of birth and any other personal descriptive information required by the department. Each agency shall update the information and submit the updated information quarterly to the department.

SECTION 3.002. Section 411.122(d), Government Code, is amended to read as follows:

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

- (1) Texas Appraiser Licensing and Certification Board;
- (2) Texas Board of Architectural Examiners;
- (3) Texas Board of Chiropractic Examiners;
- (4) State Board of Dental Examiners;

- 1 (5) Texas Board of Professional Engineers;
- 2 (6) Texas Funeral Service Commission;
- 3 (7) Texas Board of Professional Geoscientists;
- 4 (8) Health and Human Services Commission [~~Department~~
5 ~~of State Health Services~~], except as provided by Section 411.110,
6 and agencies attached to the commission [~~department, including:~~
7 [~~(A) Texas State Board of Examiners of Marriage~~
8 ~~and Family Therapists;~~
9 [~~(B) Texas State Board of Examiners of~~
10 ~~Professional Counselors; and~~
11 [~~(C) Texas State Board of Social Worker~~
12 ~~Examiners~~];
- 13 (9) Texas Board of Professional Land Surveying;
- 14 (10) Texas Department of Licensing and Regulation,
15 except as provided by Section 411.093;
- 16 (11) Texas Commission on Environmental Quality;
- 17 (12) Texas Board of Occupational Therapy Examiners;
- 18 (13) Texas Optometry Board;
- 19 (14) Texas State Board of Pharmacy;
- 20 (15) Texas Board of Physical Therapy Examiners;
- 21 (16) Texas State Board of Plumbing Examiners;
- 22 (17) [~~Texas State Board of Podiatric Medical~~
23 ~~Examiners;~~
- 24 [~~(18)~~] Texas Behavioral Health Executive Council
25 [~~State Board of Examiners of Psychologists~~];
- 26 (18) [~~(19)~~] Texas Real Estate Commission;
- 27 (19) [~~(20)~~] Texas Department of Transportation;

- 1 (20) [~~(21)~~] State Board of Veterinary Medical
2 Examiners;
3 (21) [~~(22)~~] Texas Department of Housing and Community
4 Affairs;
5 (22) [~~(23)~~] secretary of state;
6 (23) [~~(24)~~] state fire marshal;
7 (24) [~~(25)~~] Texas Education Agency;
8 (25) [~~(26)~~] Department of Agriculture; and
9 (26) [~~(27)~~] Texas Department of Motor Vehicles.

10 SECTION 3.003. Section 2054.2606(a), Government Code, is
11 amended to read as follows:

12 (a) The following licensing entities shall establish a
13 profile system consisting of the specific license holder
14 information prescribed by Subsection (c):

15 (1) Texas Board of Chiropractic Examiners, with
16 respect to chiropractors;

17 (2) Texas Department of Licensing and Regulation
18 [~~State Board of Podiatric Medical Examiners~~], with respect to
19 podiatrists;

20 (3) State Board of Dental Examiners, with respect to
21 dentists;

22 (4) Texas Optometry Board, with respect to
23 optometrists and therapeutic optometrists;

24 (5) Texas Board of Physical Therapy Examiners, with
25 respect to physical therapists and physical therapy facilities;

26 (6) Texas Board of Occupational Therapy Examiners,
27 with respect to occupational therapists and occupational therapy

1 facilities;

2 (7) Texas Behavioral Health Executive Council [~~State~~
3 ~~Board of Examiners of Psychologists~~], with respect to
4 psychologists; and

5 (8) Texas State Board of Pharmacy, with respect to
6 pharmacists and pharmacies.

7 SECTION 3.004. Section 2054.352(a), Government Code, is
8 amended to read as follows:

9 (a) The following licensing entities shall participate in
10 the system established under Section 2054.353:

11 (1) Texas Board of Chiropractic Examiners;

12 (2) Judicial Branch Certification Commission;

13 (3) State Board of Dental Examiners;

14 (4) Texas Funeral Service Commission;

15 (5) Texas Board of Professional Land Surveying;

16 (6) Texas Medical Board;

17 (7) Texas Board of Nursing;

18 (8) Texas Optometry Board;

19 (9) Department of Agriculture, for licenses issued
20 under Chapter 1951, Occupations Code;

21 (10) Texas State Board of Pharmacy;

22 (11) Executive Council of Physical Therapy and
23 Occupational Therapy Examiners;

24 (12) Texas State Board of Plumbing Examiners;

25 (13) [~~Texas State Board of Podiatric Medical~~
26 ~~Examiners,~~

27 [~~(14)~~] Texas Behavioral Health Executive Council

- 1 ~~[State Board of Examiners of Psychologists];~~
2 (14) [~~(15)~~] State Board of Veterinary Medical
3 Examiners;
4 (15) [~~(16)~~] Texas Real Estate Commission;
5 (16) [~~(17)~~] Texas Appraiser Licensing and
6 Certification Board;
7 (17) [~~(18)~~] Texas Department of Licensing and
8 Regulation;
9 (18) [~~(19)~~] Texas State Board of Public Accountancy;
10 (19) [~~(20)~~] State Board for Educator Certification;
11 (20) [~~(21)~~] Texas Board of Professional Engineers;
12 (21) Health and Human Services Commission
13 [~~(22) Department of State Health Services];~~
14 (22) [~~(23)~~] Texas Board of Architectural Examiners;
15 (23) [~~(24)~~] Texas Racing Commission;
16 (24) [~~(25)~~] Texas Commission on Law Enforcement; and
17 (25) [~~(26)~~] Texas Private Security Board.

18 SECTION 3.005. Section 36.132(a)(2), Human Resources Code,
19 is amended to read as follows:

- 20 (2) "Licensing authority" means:
21 (A) the Texas Medical Board;
22 (B) the State Board of Dental Examiners;
23 (C) the Texas Behavioral Health Executive
24 Council [~~State Board of Examiners of Psychologists];~~
25 (D) [~~the Texas State Board of Social Worker~~
26 ~~Examiners,~~
27 [~~(E)~~] the Texas Board of Nursing;

1 (E) [~~(F)~~] the Texas Board of Physical Therapy
2 Examiners;

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

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

8 SECTION 3.006. Sections 1451.001(9), (10), (11), (18), and
9 (19), Insurance Code, are amended to read as follows:

10 (9) "Licensed clinical social worker" means an
11 individual licensed [~~by the Texas State Board of Social Worker~~
12 ~~Examiners~~] as a [~~licensed~~] clinical social worker under Chapter
13 505, Occupations Code.

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

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

20 (18) "Psychological associate" means an individual
21 licensed as a psychological associate by the Texas Behavioral
22 Health Executive Council [~~State Board of Examiners of Psychologists~~
23 ~~who practices solely under the supervision of a licensed~~
24 ~~psychologist~~].

25 (19) "Psychologist" means an individual licensed as a
26 psychologist by the Texas Behavioral Health Executive Council
27 [~~State Board of Examiners of Psychologists~~].

1 SECTION 3.007. Section 101.002, Occupations Code, is
2 amended to read as follows:

3 Sec. 101.002. COMPOSITION OF COUNCIL. The council consists
4 of 14 members, with one member appointed by each of the following:

- 5 (1) the Texas Board of Chiropractic Examiners;
- 6 (2) the State Board of Dental Examiners;
- 7 (3) the Texas Optometry Board;
- 8 (4) the Texas State Board of Pharmacy;
- 9 (5) the Texas Department of Licensing and Regulation
10 [~~State Board of Podiatric Medical Examiners~~];
- 11 (6) the State Board of Veterinary Medical Examiners;
- 12 (7) the Texas Medical Board;
- 13 (8) the Texas Board of Nursing;
- 14 (9) the Texas Behavioral Health Executive Council
15 [~~State Board of Examiners of Psychologists~~];
- 16 (10) the Texas Funeral Service Commission;
- 17 (11) the entity that regulates the practice of
18 physical therapy;
- 19 (12) the entity that regulates the practice of
20 occupational therapy;
- 21 (13) the health licensing division of the Health and
22 Human Services Commission [~~Department of State Health Services~~];
- 23 and
- 24 (14) the governor's office.

25 SECTION 3.008. Section 110.001(7), Occupations Code, is
26 amended to read as follows:

- 27 (7) "Sex offender treatment provider" means a person,

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

17 ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

18 SECTION 4.001. In this article:

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

21 (2) "Transferring entity" means:

22 (A) the Texas State Board of Examiners of
23 Psychologists;

24 (B) the Texas State Board of Examiners of
25 Marriage and Family Therapists;

26 (C) the Texas State Board of Examiners of
27 Professional Counselors; and

1 (D) the Texas State Board of Social Worker
2 Examiners.

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

8 (b) A member of a board who, before the effective date of
9 this Act, completed the training program required by Section
10 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the
11 applicable law existed before the effective date of this Act, is
12 required to complete additional training only on the subjects added
13 by this Act to the training program required by Section 501.059,
14 502.059, 503.110, or 505.109, Occupations Code, as applicable. A
15 board member described by this subsection may not vote, deliberate,
16 or be counted as a member in attendance at a meeting of the board
17 held on or after December 1, 2019, until the member completes the
18 additional training.

19 SECTION 4.003. (a) Section 501.2525, Occupations Code, as
20 redesignated and amended by this Act, applies only to an
21 application for a license under Chapter 501, Occupations Code, that
22 is submitted on or after the effective date of this Act. An
23 application submitted before the effective date of this Act is
24 governed by the law in effect on the date the application was
25 submitted, and the former law is continued in effect for that
26 purpose.

27 (b) A provisional license issued under Section 501.253,

1 Occupations Code, that is in effect on the effective date of this
2 Act continues to be valid until the license expires.

3 (c) Section 502.252, Occupations Code, as amended by this
4 Act, applies only to an application for a license under Chapter 502,
5 Occupations Code, submitted on or after the date on which rules
6 adopted by the Texas Behavioral Health Executive Council under that
7 section take effect. An application submitted before that date is
8 governed by the law in effect immediately before the effective date
9 of this Act, and the former law is continued in effect for that
10 purpose.

11 SECTION 4.004. Not later than August 31, 2020, an initial
12 member of the executive council shall complete the training
13 required by Section 507.059, Occupations Code, as added by this
14 Act. On or after September 1, 2020, a member of the executive
15 council may not vote, deliberate, or be counted as a member in
16 attendance at a meeting of the executive council until the member
17 has completed the training required by that section.

18 SECTION 4.005. (a) Not later than December 1, 2019, the
19 appropriate appointing authorities shall appoint the members of the
20 executive council as provided by Section 507.051, Occupations Code,
21 as added by this Act.

22 (b) Notwithstanding the terms established by Section
23 507.054, Occupations Code, as added by this Act, in making the
24 initial appointments to the executive council, the Texas State
25 Board of Examiners of Psychologists, the Texas State Board of
26 Examiners of Marriage and Family Therapists, the Texas State Board
27 of Examiners of Professional Counselors, and the Texas State Board

1 of Social Worker Examiners shall each appoint one member to a term
2 expiring February 1, 2021, and one member to a term expiring
3 February 1, 2022.

4 SECTION 4.006. (a) The Texas Behavioral Health Incubation
5 Task Force is established to assist in the establishment of and
6 transfer of regulatory programs to the executive council under this
7 Act by providing guidance to:

8 (1) the executive council regarding:

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

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

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

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

17 (2) the transferring entities and the executive
18 council regarding:

19 (A) the efficient transfer of necessary data; and

20 (B) the revision of existing rules to align with
21 the administrative structure of the executive council.

22 (b) The task force is composed of:

23 (1) the executive commissioner of the Health and Human
24 Services Commission, or the executive commissioner's designee;

25 (2) the executive director of the Texas Department of
26 Licensing and Regulation, or the executive director's designee;

27 (3) the executive director of the Texas State Board of

1 Examiners of Psychologists;

2 (4) a representative of the Texas State Board of
3 Examiners of Marriage and Family Therapists;

4 (5) a representative of the Texas State Board of
5 Examiners of Professional Counselors; and

6 (6) a representative of the Texas State Board of
7 Social Worker Examiners.

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

13 SECTION 4.007. (a) Not later than April 1, 2020, the
14 executive council shall hire an executive director for the
15 executive council.

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

19 SECTION 4.008. (a) As soon as practicable after the
20 appointment of the members of the executive council, the executive
21 council and the transferring entities shall adopt a transition plan
22 to provide for the orderly transfer of powers, duties, functions,
23 programs, and activities under this Act. The transition plan must
24 provide for the transfer of each regulatory program to be
25 completed on or before August 31, 2020.

26 (b) The transferring entities shall provide the executive
27 council with access to any systems or information necessary for the

1 executive council to accept a program transferred under this Act.

2 (c) On the date specified in the transition plan required
3 under Subsection (a) of this section for the transfer of a
4 particular program to the executive council, all full-time
5 equivalent employee positions at a transferring entity that
6 primarily concern the administration or enforcement of the program
7 being transferred become positions at the executive council. The
8 executive council shall post the positions for hiring and, when
9 filling the positions, shall give consideration to, but is not
10 required to hire, an applicant who, immediately before the date of
11 the transfer, was an employee at a transferring entity primarily
12 involved in administering or enforcing the transferred program.

13 SECTION 4.009. On the date specified in the transition plan
14 required under Section 4.008(a) of this Act for the transfer of a
15 particular program to the executive council:

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

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

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

27 SECTION 4.010. To the extent of any conflict, this Act

H.B. No. 1501

1 prevails over another Act of the 86th Legislature, Regular Session,
2 2019, relating to nonsubstantive additions to and corrections in
3 enacted codes.

4 SECTION 4.011. This Act takes effect September 1, 2019.

ADOPTED

MAY 14 2019

By: Nevarez/Nichols

Substitute the following for ___B. No. _____

Lacey Spant
Secretary of the Senate

B. No. _____

By: Charles Perry

C.S. H.B. No. 1501

A BILL TO BE ENTITLED

AN ACT

1

2 relating to the creation of the Texas Behavioral Health Executive
3 Council and to the continuation and transfer of the regulation of
4 psychologists, marriage and family therapists, professional
5 counselors, and social workers to the Texas Behavioral Health
6 Executive Council; providing civil and administrative penalties;
7 authorizing a fee.

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

9 ARTICLE 1. CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE
10 COUNCIL

11 SECTION 1.001. Subtitle I, Title 3, Occupations Code, is
12 amended by adding Chapter 507 to read as follows:

13 CHAPTER 507. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 507.001. DEFINITIONS. In this chapter:

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

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

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

23 (4) "Professional counseling board" means the Texas
24 State Board of Examiners of Professional Counselors.

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

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

5 Sec. 507.002. APPLICATION OF SUNSET ACT. The Texas
6 Behavioral Health Executive Council is subject to Chapter 325,
7 Government Code (Texas Sunset Act). Unless continued in existence
8 as provided by that chapter, the executive council is abolished and
9 this chapter and Chapters 501, 502, 503, and 505 expire September 1,
10 2031.

11 SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

12 Sec. 507.051. EXECUTIVE COUNCIL MEMBERSHIP. (a) The Texas
13 Behavioral Health Executive Council consists of nine members as
14 follows:

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

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

21 (3) one psychologist member and one public member of
22 the psychology board, each appointed by that board;

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

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

26 (b) Appointments to the executive council shall be made
27 without regard to the race, color, disability, sex, age, religion,

1 or national origin of the appointee.

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

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

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

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

18 or

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

27 Sec. 507.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

1 In this section, "Texas trade association" means a cooperative and
2 voluntarily joined statewide association of business or
3 professional competitors in this state designed to assist its
4 members and its industry or profession in dealing with mutual
5 business or professional problems and in promoting their common
6 interest.

7 (b) A person may not be a member of the executive council and
8 may not be an executive council employee employed in a "bona fide
9 executive, administrative, or professional capacity," as that
10 phrase is used for purposes of establishing an exemption to the
11 overtime provisions of the federal Fair Labor Standards Act of 1938
12 (29 U.S.C. Section 201 et seq.) if:

13 (1) the person is an officer, employee, or paid
14 consultant of a Texas trade association in the field of health care;
15 or

16 (2) the person's spouse is an officer, manager, or paid
17 consultant of a Texas trade association in the field of health care.

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

25 Sec. 507.054. TERMS; VACANCY. (a) The member appointed by
26 the governor serves a six-year term. The remaining members serve
27 two-year terms with the terms of four of those members expiring

1 February 1 of each year.

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

4 Sec. 507.055. PRESIDING OFFICER. The member appointed by
5 the governor is the presiding officer of the executive council.

6 Sec. 507.056. GROUNDS FOR REMOVAL. (a) It is a ground for
7 removal from the executive council that a member:

8 (1) does not have at the time of taking office the
9 qualifications required by Section 507.051;

10 (2) does not maintain during service on the executive
11 council the qualifications required by Section 507.051;

12 (3) is ineligible for membership under Section 507.052
13 or 507.053;

14 (4) cannot, because of illness or disability,
15 discharge the member's duties for a substantial part of the member's
16 term; or

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

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

24 (c) If the executive director has knowledge that a potential
25 ground for removal exists, the executive director shall notify the
26 presiding officer of the executive council of the potential ground.
27 The presiding officer shall then notify the appointing authority

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

7 Sec. 507.057. REIMBURSEMENT. A member of the executive
8 council may receive reimbursement for travel expenses as provided
9 by the General Appropriations Act.

10 Sec. 507.058. MEETINGS. (a) The executive council shall
11 hold at least two regular meetings each year.

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

15 Sec. 507.059. TRAINING. (a) A person who is appointed to
16 and qualifies for office as a member of the executive council may
17 not vote, deliberate, or be counted as a member in attendance at a
18 meeting of the executive council until the person completes a
19 training program that complies with this section.

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

22 (1) the law governing executive council operations;

23 (2) the programs, functions, rules, and budget of the
24 executive council;

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

27 (4) the types of executive council rules,

1 interpretations, and enforcement actions that may implicate
2 federal antitrust law by limiting competition or impacting prices
3 charged by persons engaged in a profession or business the
4 executive council regulates, including any rule, interpretation,
5 or enforcement action that:

6 (A) regulates the scope of practice of persons in
7 a profession or business the executive council regulates;

8 (B) restricts advertising by persons in a
9 profession or business the executive council regulates;

10 (C) affects the price of goods or services
11 provided by persons in a profession or business the executive
12 council regulates; or

13 (D) restricts participation in a profession or
14 business the executive council regulates;

15 (5) the results of the most recent formal audit of the
16 executive council;

17 (6) the requirements of:

18 (A) laws relating to open meetings, public
19 information, administrative procedure, and disclosure of conflicts
20 of interest; and

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

23 (7) any applicable ethics policies adopted by the
24 executive council or the Texas Ethics Commission.

25 (c) A person appointed to the executive council is entitled
26 to reimbursement, as provided by the General Appropriations Act,
27 for the travel expenses incurred in attending the training program

1 regardless of whether the attendance at the program occurs before
2 or after the person qualifies for office.

3 (d) The executive director of the executive council shall
4 create a training manual that includes the information required by
5 Subsection (b). The executive director shall distribute a copy of
6 the training manual annually to each executive council member.
7 Each member of the executive council shall sign and submit to the
8 executive director a statement acknowledging that the member
9 received and has reviewed the training manual.

10 SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

11 Sec. 507.101. EXECUTIVE DIRECTOR; PERSONNEL. The executive
12 council shall employ an executive director and other personnel as
13 necessary to administer this chapter and carry out the functions of
14 the executive council.

15 Sec. 507.102. DIVISION OF RESPONSIBILITIES. The executive
16 council shall develop and implement policies that clearly separate
17 the policymaking responsibilities of the executive council and the
18 management responsibilities of the executive director and the staff
19 of the executive council.

20 Sec. 507.103. CAREER LADDER PROGRAM; PERFORMANCE
21 EVALUATIONS. (a) The executive director or the executive
22 director's designee shall develop an intra-agency career ladder
23 program. The program must require intra-agency posting of all
24 nonentry level positions concurrently with any public posting.

25 (b) The executive director or the executive director's
26 designee shall develop a system of annual performance evaluations
27 based on measurable job tasks. All merit pay for executive council

1 employees must be based on the system established under this
2 subsection.

3 Sec. 507.104. EQUAL OPPORTUNITY POLICY; REPORT. (a) The
4 executive director or the executive director's designee shall
5 prepare and maintain a written policy statement to ensure
6 implementation of an equal opportunity program under which all
7 personnel transactions are made without regard to race, color,
8 disability, sex, age, religion, or national origin. The policy
9 statement must include:

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

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

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

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

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

23 (1) cover an annual period;

24 (2) be updated annually;

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

27 (4) be filed with the governor.

1 (c) The governor shall deliver a biennial report to the
2 legislature based on information received under Subsection (b).
3 The report may be made separately or as part of other biennial
4 reports made to the legislature.

5 SUBCHAPTER D. POWERS AND DUTIES

6 Sec. 507.151. GENERAL POWERS AND DUTIES. (a) The executive
7 council shall administer and enforce this chapter and Chapters 501,
8 502, 503, and 505.

9 (b) In carrying out its duties under this section, the
10 executive council may request input or assistance from the board
11 for the applicable profession.

12 Sec. 507.152. GENERAL RULEMAKING AUTHORITY. The executive
13 council shall adopt rules as necessary to perform its duties and
14 implement this chapter.

15 Sec. 507.153. LIMITATION REGARDING CERTAIN RULES. (a)
16 Unless the rule has been proposed by the applicable board for the
17 profession, the executive council may not adopt under this chapter
18 or Chapter 501, 502, 503, or 505:

19 (1) a rule regarding:

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

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

25 (C) continuing education requirements for
26 license holders; or

27 (2) a schedule of sanctions for violations of the laws

1 and rules applicable to the profession.

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

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

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

14 Sec. 507.154. FEES. The executive council shall set fees in
15 amounts reasonable and necessary to cover the costs of
16 administering this chapter and Chapters 501, 502, 503, and 505,
17 including fees for:

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

23 Sec. 507.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE
24 BIDDING. (a) The executive council may not adopt rules restricting
25 advertising or competitive bidding by a person regulated by the
26 executive council except to prohibit false, misleading, or
27 deceptive practices.

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

4 (1) restricts the person's use of any advertising
5 medium;

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

8 (3) relates to the size or duration of an
9 advertisement by the person; or

10 (4) restricts the use of a trade name in advertising by
11 the person.

12 Sec. 507.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

13 The executive council shall adopt rules and guidelines as necessary
14 to comply with Chapter 53.

15 Sec. 507.157. CONTINUING EDUCATION. The executive council

16 shall recognize, prepare, or administer continuing education
17 programs for license holders. A license holder must participate in
18 the programs to the extent required by the executive council to keep
19 the person's license.

20 Sec. 507.158. USE OF TECHNOLOGY. The executive council

21 shall implement a policy requiring the executive council to use
22 appropriate technological solutions to improve the executive
23 council's ability to perform its functions. The policy must ensure
24 that the public is able to interact with the executive council on
25 the Internet.

26 Sec. 507.159. NEGOTIATED RULEMAKING AND ALTERNATIVE

27 DISPUTE RESOLUTION POLICY. (a) The executive council shall

1 develop a policy to encourage the use of:

2 (1) negotiated rulemaking procedures under Chapter
3 2008, Government Code, for the adoption of executive council rules;
4 and

5 (2) appropriate alternative dispute resolution
6 procedures under Chapter 2009, Government Code, to assist in the
7 resolution of internal and external disputes under the executive
8 council's jurisdiction.

9 (b) The executive council's procedures relating to
10 alternative dispute resolution must conform, to the extent
11 possible, to any model guidelines issued by the State Office of
12 Administrative Hearings for the use of alternative dispute
13 resolution by state agencies.

14 (c) The executive council shall:

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

17 (2) provide training as needed to implement the
18 procedures for negotiated rulemaking and alternative dispute
19 resolution; and

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

22 Sec. 507.160. ANNUAL REGISTRY. (a) The executive council
23 shall annually prepare a registry of all license holders.

24 (b) The executive council shall make the registry available
25 to the public, license holders, and other state agencies.

26 SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

27 Sec. 507.201. PUBLIC INTEREST INFORMATION. (a) The

1 executive council shall prepare information of public interest
2 describing the functions of the executive council and the
3 procedures by which complaints are filed with and resolved by the
4 executive council.

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

7 Sec. 507.202. COMPLAINTS. (a) The executive council by
8 rule shall establish methods by which consumers and service
9 recipients are notified of the name, mailing address, and telephone
10 number of the executive council for the purpose of directing
11 complaints to the executive council. The executive council may
12 provide for that notice:

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

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

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

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

24 Sec. 507.203. INFORMATION ABOUT COMPLAINT ACTIONS. (a)
25 The executive council shall maintain a system to promptly and
26 efficiently act on complaints filed with the executive council.
27 The executive council shall maintain information about parties to

1 the complaint, the subject matter of the complaint, a summary of the
2 results of the review or investigation of the complaint, and its
3 disposition.

4 (b) The executive council shall make information available
5 describing its procedures for complaint investigation and
6 resolution.

7 (c) The executive council shall periodically notify the
8 parties to a complaint of the status of the complaint until final
9 disposition of the complaint.

10 Sec. 507.204. GENERAL RULES REGARDING COMPLAINT
11 INVESTIGATION. (a) The executive council shall adopt rules
12 concerning the investigation of a complaint filed with the
13 executive council. The rules adopted under this section must:

14 (1) distinguish between categories of complaints;

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

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

21 (4) ensure that the person who files a complaint has an
22 opportunity to explain the allegations made in the complaint; and

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

27 (b) The executive council shall:

1 (1) dispose of a complaint in a timely manner; and
2 (2) establish a schedule for conducting each phase of
3 the disposition of a complaint that is under the control of the
4 executive council not later than the 30th day after the date the
5 executive council receives the complaint.

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

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

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

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

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

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

21 Sec. 507.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.

22 (a) Except as provided by Subsection (b), a complaint and
23 investigation and all information and materials compiled by the
24 executive council in connection with the complaint and
25 investigation are not subject to:

26 (1) disclosure under Chapter 552, Government Code; or

27 (2) disclosure, discovery, subpoena, or other means of

1 legal compulsion for release of information to any person.

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

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

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

9 (3) the board for the applicable profession;

10 (4) a law enforcement agency;

11 (5) a governmental agency, if:

12 (A) the disclosure is required or permitted by
13 law; and

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

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

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

25 (d) The executive council shall protect the identity of any
26 patient whose records are examined in connection with a
27 disciplinary investigation or proceeding against a license holder,

1 except a patient who:

2 (1) initiates the disciplinary action; or

3 (2) has submitted a written consent to release the
4 records.

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

11 (b) A subpoena may be served personally or by certified
12 mail.

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

18 (d) On finding that good cause exists for issuing the
19 subpoena, the court shall order the person to comply with the
20 subpoena. The court may punish a person who fails to obey the court
21 order.

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

26 (f) The reimbursement of the expenses of a witness whose
27 attendance is compelled under this section is governed by Section

1 2001.103, Government Code.

2 (g) Information and materials subpoenaed or compiled by the
3 executive council in connection with the investigation of a
4 complaint may be disclosed only as provided by Section 507.205.

5 Sec. 507.207. PUBLIC PARTICIPATION. The executive council
6 shall develop and implement policies that provide the public with a
7 reasonable opportunity to appear before the executive council and
8 to speak on any issue under the jurisdiction of the executive
9 council.

10 SUBCHAPTER F. GENERAL LICENSING PROVISIONS

11 Sec. 507.251. CRIMINAL HISTORY RECORD INFORMATION FOR
12 LICENSE ISSUANCE. (a) The executive council shall require that an
13 applicant for a license submit a complete and legible set of
14 fingerprints, on a form prescribed by the executive council, to the
15 executive council or to the Department of Public Safety for the
16 purpose of obtaining criminal history record information from the
17 Department of Public Safety and the Federal Bureau of
18 Investigation.

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

21 (c) The executive council shall conduct a criminal history
22 record information check of each applicant for a license using
23 information:

- 24 (1) provided by the individual under this section; and
25 (2) made available to the executive council by the
26 Department of Public Safety, the Federal Bureau of Investigation,
27 and any other criminal justice agency under Chapter 411, Government

1 Code.

2 (d) The executive council may:

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

6 (2) authorize the Department of Public Safety to
7 collect from each applicant the costs incurred by the Department of
8 Public Safety in conducting the criminal history record information
9 check.

10 Sec. 507.252. EXAMINATION RESULTS. (a) The executive
11 council shall notify each examinee of the results of an examination
12 not later than the 30th day after the date the examination is
13 administered. If an examination is graded or reviewed by a national
14 testing service, the executive council shall notify each examinee
15 of the results of the examination not later than the 14th day after
16 the date the executive council receives the results from the
17 testing service.

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

22 (c) If requested in writing by a person who fails an
23 examination, the executive council shall provide to the person an
24 analysis of the person's performance on the examination.

25 Sec. 507.253. REEXAMINATION. The executive council by rule
26 shall establish:

27 (1) a limit on the number of times an applicant for a

1 license who fails an examination may retake the examination; and

2 (2) the requirements for retaking an examination.

3 Sec. 507.254. FORM OF LICENSE. A license issued by the
4 executive council must include the name of the board applicable to
5 the license holder.

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

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

14 (c) If the person's license has been expired for more than
15 90 days but less than one year, the person may renew the license by
16 paying to the executive council a fee in an amount equal to two
17 times the required renewal fee.

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

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

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

3 Sec. 507.257. CRIMINAL HISTORY RECORD INFORMATION
4 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
5 license issued under this chapter shall submit a complete and
6 legible set of fingerprints for purposes of performing a criminal
7 history record information check of the applicant as provided by
8 Section 507.251.

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

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

15 (1) Section 507.251 for the initial issuance of the
16 license; or

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

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

24 Sec. 507.259. ASSISTANCE IN LICENSING DETERMINATIONS. The
25 executive council shall adopt rules establishing the manner in
26 which the executive council will solicit input from and request the
27 assistance of the applicable board for a profession regulated by

1 the executive council when the executive council is considering an
2 application for the issuance or renewal of a license that involves
3 an issue related to standards of care or an applicant's
4 professional qualifications.

5 SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES

6 Sec. 507.301. DISCIPLINARY ACTIONS. (a) The executive
7 council may deny, revoke, suspend, or refuse to renew a license or
8 may reprimand a license holder if the applicant or license holder
9 violates:

10 (1) this chapter;

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

13 (3) an executive council rule; or

14 (4) a statute or rule of another state as determined
15 through a search conducted as provided by Section 507.258 if the
16 violation would constitute a violation described by Subdivision
17 (1), (2), or (3) had it occurred in this state.

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

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

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

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

1 probation.

2 Sec. 507.302. TEMPORARY SUSPENSION. (a) The executive
3 council or a three-member committee of executive council members
4 designated by the executive council shall temporarily suspend the
5 license of a license holder if the executive council or committee
6 determines from the evidence or information presented to it that
7 continued practice by the license holder would constitute a
8 continuing and imminent threat to the public welfare.

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

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

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

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

22 Sec. 507.303. HEARING; ADMINISTRATIVE PROCEDURE. (a) A
23 license holder is entitled to a hearing before the State Office of
24 Administrative Hearings before a sanction is imposed under this
25 subchapter.

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

1 Sec. 507.304. SCHEDULE OF SANCTIONS. (a) The executive
2 council by rule shall adopt a broad schedule of sanctions.

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

6 Sec. 507.305. INFORMAL PROCEEDINGS. (a) The executive
7 council by rule shall adopt procedures governing:

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

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

12 (b) Rules adopted under this section must:

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

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

19 Sec. 507.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS. (a)
20 The executive council shall adopt rules establishing the manner in
21 which the executive council will solicit input from and request the
22 assistance of the applicable board for a profession regulated by
23 the executive council, regarding a disciplinary proceeding before
24 the executive council involving an issue or complaint related to
25 standards of care or ethical practice.

26 (b) Rules adopted under this section must include a process
27 for referring a complaint to the applicable board if the complaint

1 alleges:

2 (1) a substantive violation of a standard of care or
3 ethical guideline for the profession; or

4 (2) an act of a license holder that violates the
5 profession's scope of practice.

6 (c) On receiving a recommended disposition of a complaint
7 from the applicable board, the executive council shall adopt the
8 recommended disposition unless the executive council determines
9 that:

10 (1) the recommended disposition would:

11 (A) have an anti-competitive effect;

12 (B) result in an administrative inconsistency;

13 or

14 (C) raise concerns relating to good governance

15 practices; or

16 (2) any recommended disciplinary penalty would
17 deviate substantially from the schedule of sanctions for the
18 applicable profession.

19 SUBCHAPTER H. ADMINISTRATIVE PENALTY

20 Sec. 507.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The
21 executive council may impose an administrative penalty on a person
22 licensed or regulated by the executive council if the person
23 violates this chapter, a law regulating the applicable profession,
24 or an executive council rule.

25 Sec. 507.352. AMOUNT OF PENALTY. (a) The amount of an
26 administrative penalty may not exceed \$5,000 for each violation.
27 Each day a violation continues or occurs is a separate violation for

1 purposes of imposing a penalty.

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

3 (1) the seriousness of the violation, including:

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

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

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

10 (3) the history of previous violations;

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

12 (5) efforts made to correct the violation; and

13 (6) any other matter that justice may require.

14 Sec. 507.353. NOTICE OF VIOLATION AND PENALTY. If the
15 executive council determines that a violation occurred, the
16 executive council shall give written notice of the violation to the
17 person alleged to have committed the violation. The notice may be
18 given by certified mail. The notice must:

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

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

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

25 Sec. 507.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
26 Not later than the 20th day after the date the person receives the
27 notice under Section 507.353, the person may in writing:

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

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

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

8 Sec. 507.355. HEARING. (a) If the person requests a
9 hearing or fails to respond in a timely manner to the notice under
10 Section 507.353, the executive council shall set a hearing and give
11 written notice of the hearing to the person.

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

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

18 Sec. 507.356. DECISION BY EXECUTIVE COUNCIL. (a) Based on
19 the findings of fact, conclusions of law, and proposal for a
20 decision, the executive council by order may determine that:

21 (1) a violation occurred and impose an administrative
22 penalty; or

23 (2) a violation did not occur.

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

27 Sec. 507.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

1 (a) Not later than the 30th day after the date the executive
2 council's order becomes final, the person shall:
3 (1) pay the administrative penalty; or
4 (2) file a petition for judicial review contesting the
5 occurrence of the violation, the amount of the penalty, or both.
6 (b) Within the 30-day period prescribed by Subsection (a), a
7 person who files a petition for judicial review may:
8 (1) stay enforcement of the penalty by:
9 (A) paying the penalty to the court for placement
10 in an escrow account; or
11 (B) giving to the court a supersedeas bond
12 approved by the court that is:
13 (i) for the amount of the penalty; and
14 (ii) effective until judicial review of the
15 executive council's order is final; or
16 (2) request the court to stay enforcement of the
17 penalty by:
18 (A) filing with the court a sworn affidavit of
19 the person stating that the person is financially unable to pay the
20 penalty and is financially unable to give the supersedeas bond; and
21 (B) giving a copy of the affidavit to the
22 executive council by certified mail.
23 (c) If the executive council receives a copy of an affidavit
24 under Subsection (b)(2), the executive council may file with the
25 court a contest to the affidavit not later than the fifth day after
26 the date the copy is received.
27 (d) The court shall hold a hearing on the facts alleged in

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

6 Sec. 507.358. COLLECTION OF PENALTY. If the person does not
7 pay the administrative penalty and enforcement of the penalty is
8 not stayed, the executive council may refer the matter to the
9 attorney general for collection of the penalty.

10 Sec. 507.359. DETERMINATION BY COURT. (a) If the court
11 sustains the determination that a violation has occurred, the court
12 may uphold or reduce the amount of the administrative penalty and
13 order the person to pay the full or reduced amount of the penalty.

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

17 Sec. 507.360. REMITTANCE OF PENALTY AND INTEREST. (a) If,
18 after judicial review, the administrative penalty is reduced or not
19 imposed by the court, the court shall, after the judgment becomes
20 final:

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

24 (2) order the release of the bond:

25 (A) if the person gave a supersedeas bond and the
26 penalty is not imposed; or

27 (B) after the person pays the penalty if the

1 person gave a supersedeas bond and the penalty is reduced.

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

7 Sec. 507.361. ADMINISTRATIVE PROCEDURE. A proceeding under
8 this subchapter is subject to Chapter 2001, Government Code.

9 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

10 Sec. 507.401. INJUNCTION. (a) In addition to any other
11 action authorized by law, the executive council may institute an
12 action to enjoin a violation of this chapter, a law regulating the
13 applicable profession, or an executive council rule.

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

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

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

24 (b) At the request of the executive council, the attorney
25 general shall bring an action to recover a civil penalty authorized
26 under this section.

27 Sec. 507.403. CEASE AND DESIST ORDER. (a) If it appears to

1 the executive council that an unlicensed person is violating this
2 chapter, a law regulating the applicable profession, or an
3 executive council rule, the executive council, after notice and
4 opportunity for a hearing, may issue a cease and desist order
5 prohibiting the person from engaging in the activity.

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

8 Sec. 507.404. MONITORING OF LICENSE HOLDER. The executive
9 council by rule shall develop a system to monitor a license holder's
10 compliance with applicable laws and executive council rules. Rules
11 adopted under this section must include procedures to:

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

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

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

18 SECTION 2.001. Section 501.002, Occupations Code, is
19 amended by adding Subdivision (1-a) to read as follows:

20 (1-a) "Executive council" means the Texas Behavioral
21 Health Executive Council.

22 SECTION 2.002. The heading to Section 501.053, Occupations
23 Code, is amended to read as follows:

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

25 SECTION 2.003. Sections 501.053(b) and (c), Occupations
26 Code, are amended to read as follows:

27 (b) A person may not be a member of the board [~~and may not be~~

1 ~~a board employee employed in a "bona fide executive,~~
2 ~~administrative, or professional capacity," as that phrase is used~~
3 ~~for purposes of establishing an exemption to the overtime~~
4 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~
5 ~~U.S.C. Section 201 et seq.)] if:~~

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

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

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

17 SECTION 2.004. Section 501.055(c), Occupations Code, is
18 amended to read as follows:

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

1 removal exists.

2 SECTION 2.005. Section 501.059, Occupations Code, is
3 amended by amending Subsection (b) and adding Subsection (d) to
4 read as follows:

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

7 (1) the law governing board operations;

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

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

12 (4) the types of board rules, interpretations, and
13 enforcement actions that may implicate federal antitrust law by
14 limiting competition or impacting prices charged by persons engaged
15 in a profession or business the board regulates, including any
16 rule, interpretation, or enforcement action that:

17 (A) regulates the scope of practice of persons in
18 a profession or business the board regulates;

19 (B) restricts advertising by persons in a
20 profession or business the board regulates;

21 (C) affects the price of goods or services
22 provided by persons in a profession or business the board
23 regulates; or

24 (D) restricts participation in a profession or
25 business the board regulates;

26 (5) [~~+~~2] the results of the most recent formal audit
27 of the board;

1 (6) [~~3~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosure of conflicts
4 of interest; and

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

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

9 (d) The executive director of the executive council shall
10 create a training manual that includes the information required by
11 Subsection (b). The executive director shall distribute a copy of
12 the training manual annually to each board member. Each member of
13 the board shall sign and submit to the executive director a
14 statement acknowledging that the member received and has reviewed
15 the training manual.

16 SECTION 2.006. The heading to Subchapter D, Chapter 501,
17 Occupations Code, is amended to read as follows:

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

19 SECTION 2.007. The heading to Section 501.151, Occupations
20 Code, is amended to read as follows:

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

23 SECTION 2.008. Sections 501.151(c) and (d), Occupations
24 Code, are amended to read as follows:

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

27 (d) The executive council [~~board~~] may certify the specialty

1 of health service providers under this chapter.

2 SECTION 2.009. Subchapter D, Chapter 501, Occupations Code,
3 is amended by adding Section 501.1515 to read as follows:

4 Sec. 501.1515. BOARD DUTIES. The board shall propose to the
5 executive council:

6 (1) rules regarding:

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

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

12 (C) continuing education requirements for
13 license holders; and

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

16 SECTION 2.010. Section 501.155, Occupations Code, is
17 amended to read as follows:

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

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

26 SECTION 2.011. Section 501.158, Occupations Code, is
27 amended to read as follows:

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

3 (1) applying to take the [~~provisional~~] license
4 examination;

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

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

8 (4) otherwise providing psychological services under
9 a license approved by the executive council under this chapter
10 [~~board~~].

11 (b) On a determination by the executive council [~~board~~]
12 based on the executive council's [~~board's~~] reasonable belief that a
13 person is not physically and mentally competent to provide
14 psychological services with reasonable skill and safety to patients
15 or has a physical or mental disease or condition that would impair
16 the person's competency to provide psychological services, the
17 executive council [~~board~~] may request the person to submit to:

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

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

22 (c) The executive council [~~board~~] shall issue an order
23 requiring a [~~an applicant or~~] person [~~seeking renewal of a~~
24 ~~provisional license~~] who refuses to submit to an examination under
25 this section to show cause for the person's refusal at a hearing on
26 the order scheduled for not later than the 30th day after the date
27 notice is served on the person. The executive council [~~board~~] shall

1 provide notice under this section by personal service or by
2 registered mail, return receipt requested.

3 (d) At the hearing, the person may appear in person and by
4 counsel and present evidence to justify the person's refusal to
5 submit to examination. After the hearing, the executive council
6 [~~board~~] shall issue an order requiring the person to submit to
7 examination under this section or withdrawing the request for the
8 examination.

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

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

15 SECTION 2.012. Section 501.252(a), Occupations Code, is
16 amended to read as follows:

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

20 (1) is qualified for the license under Section
21 501.2525 [~~complies with this section~~]; and

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

23 SECTION 2.013. Section 501.255, Occupations Code, is
24 redesignated as Section 501.2525, Occupations Code, and amended to
25 read as follows:

26 Sec. 501.2525 [~~501.255~~]. [~~PROVISIONAL~~] LICENSE
27 [~~EXAMINATION~~] QUALIFICATIONS. (a) An applicant is qualified [~~may~~

1 ~~take an examination]~~ for a [~~provisional~~] license under this chapter
2 if the applicant:

3 (1) has received:

4 (A) a doctoral degree in psychology from a
5 regionally accredited educational institution conferred on or
6 after January 1, 1979; or

7 (B) a doctoral degree in psychology, or the
8 substantial equivalent of a doctoral degree in psychology in both
9 subject matter and extent of training, from a regionally accredited
10 educational institution conferred before January 1, 1979;

11 (2) except as provided by Subsection (c) and Section
12 501.253, has:

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

18 (B) passed any examination required by Section
19 501.256;

20 (3) has attained the age of majority;

21 ~~[(3) has good moral character,]~~

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

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

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

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

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

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

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

11 (B) represented that the applicant is licensed
12 under this chapter to practice psychology when the applicant is not
13 licensed; or

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

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

24 (c) Subsection (a)(2)(A) does not apply to an applicant who:

25 (1) is licensed in good standing in another state to
26 independently practice psychology; and

27 (2) has independently practiced psychology in that

1 state for at least five years.

2 (d) For purposes of Subsection (a)(2)(A), experience is
3 supervised only if the experience is supervised by a psychologist
4 in the manner provided by the executive council's supervision
5 guidelines. To determine the acceptability of an applicant's
6 experience, the executive council may require documentary evidence
7 of the quality, scope, and nature of the applicant's experience.
8 The executive council may count toward the supervised experience an
9 applicant is required to obtain after the applicant's degree is
10 conferred any hours of supervised experience the applicant
11 completed as part of a degree program accredited by the American
12 Psychological Association, the Canadian Psychological Association,
13 or a substantially equivalent degree program.

14 SECTION 2.014. Section 501.253, Occupations Code, is
15 amended to read as follows:

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

22 [~~(1) passed the examinations prescribed by the board,~~
23 [~~(2) satisfied the preliminary requirements of~~
24 Sections 501.254 and 501.255, and

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

26 (b) A [provisional] license holder described by Subsection
27 (a) is entitled to practice psychology under the supervision of a

1 psychologist to meet the requirements for issuance of a license
2 under Section 501.2525, except that if the ~~[501.252.~~ A
3 ~~provisional]~~ license holder ~~[who]~~ is licensed in another state to
4 independently practice psychology and is in good standing in that
5 state, the license holder ~~[and who seeks a license in this state]~~ is
6 entitled to practice psychology without the supervision of a
7 psychologist ~~[during the time that the board is processing the~~
8 ~~person's application for a license]~~.

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

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

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

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

20 (e) The executive council ~~[board]~~ may not restrict the
21 issuance of a license ~~[or provisional license]~~ to an applicant who
22 is licensed in another state to independently practice psychology
23 and is in good standing in that state based on the number of years
24 the applicant has been licensed in good standing in that state.

25 ~~[(f) If an applicant who is licensed in another state to~~
26 ~~independently practice psychology and is in good standing in that~~
27 ~~state presents credentials from a national accreditation~~

1 ~~organization to the board and the board determines that the~~
2 ~~requirements for obtaining those credentials from that~~
3 ~~organization are sufficient to protect the public, the board may~~
4 ~~issue a provisional license to the applicant. An applicant who~~
5 ~~obtains a provisional license under this subsection must have~~
6 ~~passed the examination described by Section 501.256(b)(2).]~~

7 SECTION 2.015. Section 501.256, Occupations Code, is
8 amended by amending Subsections (a), (b), (c), and (d) and adding
9 Subsection (b-1) to read as follows:

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

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

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

22 (b-1) The executive council shall establish appropriate
23 fees for examinations administered under this chapter.

24 (c) The executive council [~~board~~] may waive the discipline
25 and professional segment of the examination requirement for an
26 applicant who:

- 27 (1) is a specialist of the American Board of

1 Professional Psychology; or

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

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

9 SECTION 2.016. Section 501.259, Occupations Code, is
10 amended to read as follows:

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

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

20 SECTION 2.017. Sections 501.260(a) and (b), Occupations
21 Code, are amended to read as follows:

22 (a) The executive council [~~board~~] by rule shall issue a
23 license to a licensed specialist in school psychology. A license
24 issued under this section constitutes the appropriate credential
25 for a person who provides psychological services as required by
26 Section 21.003(b), Education Code.

27 (b) The executive council [~~board~~] shall set the standards to

1 qualify for a license under this section. The standards must
2 include:

3 (1) satisfaction of minimum recognized graduate
4 degree requirements;

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

7 (A) psychological foundations;

8 (B) educational foundations;

9 (C) interventions;

10 (D) assessments; and

11 (E) professional issues and ethics;

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

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

18 (5) satisfaction of the requirements under Sections
19 501.2525(a)(3)-(9) [~~, other than the degree requirements, for an~~
20 ~~applicant to take an examination for a provisional license~~].

21 SECTION 2.018. Section 501.262, Occupations Code, is
22 amended to read as follows:

23 Sec. 501.262. RECIPROCAL LICENSE. The executive council
24 [~~board~~] may enter into and implement agreements with other
25 jurisdictions for the issuance of a license by reciprocity if the
26 other jurisdiction's requirements for licensing, certification, or
27 registration are substantially equal to the requirements of this

1 chapter.

2 SECTION 2.019. Sections 501.263(a), (b), (c), and (e),
3 Occupations Code, are amended to read as follows:

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

7 (1) pays the required application fee;

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

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

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

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

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

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

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

1 from another country.

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

7 SECTION 2.020. Section 501.264(a), Occupations Code, is
8 amended to read as follows:

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

12 SECTION 2.021. Section 501.301, Occupations Code, is
13 amended to read as follows:

14 Sec. 501.301. LICENSE EXPIRATION AND RENEWAL. (a) The
15 executive council shall adopt rules providing for the expiration
16 and renewal of a [A] license issued under this chapter. The rules
17 must require a license be renewed annually or biennially [~~expires~~
18 ~~on December 31 of the year following the date the license is issued~~
19 ~~or renewed. A license of a psychological associate expires on May~~
20 ~~31 of the year following the date the license is issued or renewed~~].

21 (b) The executive council [~~board~~] by rule may adopt a system
22 under which licenses expire on various dates during the year. For a
23 year in which the expiration date is changed, the executive council
24 [~~board~~] shall prorate the licensing fee so that each license holder
25 pays only the portion of the fee that is allocable to the number of
26 months during which the license is valid. On renewal of the license
27 on the new expiration date, the entire licensing fee is payable.

1 SECTION 2.022. Sections 501.351(a) and (c), Occupations
2 Code, are amended to read as follows:

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

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

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

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

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

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

23 (2) a delegated act constitutes the practice of
24 psychology under this chapter.

25 SECTION 2.023. Section 501.401, Occupations Code, is
26 amended to read as follows:

27 Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION. The

1 executive council [~~board~~] shall take disciplinary action under
2 Subchapter G, Chapter 507, against [~~revoke or suspend a holder's~~
3 ~~license, place on probation a person whose license has been~~
4 ~~suspended, or reprimand~~] a license holder who:

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

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

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

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

14 (5) except as provided by Section 501.263:

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

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

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

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

26 SECTION 2.024. Section 501.407, Occupations Code, is
27 amended to read as follows:

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

7 SECTION 2.025. Section 501.408, Occupations Code, is
8 amended to read as follows:

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

13 SECTION 2.026. Subchapter I, Chapter 501, Occupations Code,
14 is amended by adding Section 501.411 to read as follows:

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

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

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

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

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

27 (1) revokes, suspends, limits, or restricts a person's

1 license; or

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

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

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

12 SECTION 2.027. Section 501.505, Occupations Code, is
13 amended to read as follows:

14 Sec. 501.505. OPTION TO ORDER REFUND. (a) Under an
15 agreement resulting from an informal settlement conference, the
16 executive council [board] may order a license holder to refund to
17 the person who paid for the psychological services at issue an
18 amount not to exceed the amount the person paid to the license
19 holder for a service regulated by this chapter instead of or in
20 addition to imposing an administrative penalty under Subchapter H,
21 Chapter 507 [~~this chapter~~].

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

24 SECTION 2.028. Chapter 501, Occupations Code, is amended by
25 adding Subchapter L to read as follows:

26 SUBCHAPTER L. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

27 Sec. 501.601. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. The

1 Psychology Interjurisdictional Compact is enacted and entered into
2 as follows:

3 PSYCHOLOGY INTERJURISDICTIONAL COMPACT

4 ARTICLE I. PURPOSE

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

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

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

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

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

26 Whereas, this Compact does not apply when a psychologist is
27 licensed in both the Home and Receiving States; and

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

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

- 6 1. Increase public access to professional psychological
7 services by allowing for telepsychological practice
8 across state lines as well as temporary in-person,
9 face-to-face services into a state which the psychologist
10 is not licensed to practice psychology;
- 11 2. Enhance the states' ability to protect the public's health
12 and safety, especially client/patient safety;
- 13 3. Encourage the cooperation of Compact States in the areas of
14 psychology licensure and regulation;
- 15 4. Facilitate the exchange of information between Compact
16 States regarding psychologist licensure, adverse actions
17 and disciplinary history;
- 18 5. Promote compliance with the laws governing psychological
19 practice in each Compact State; and
- 20 6. Invest all Compact States with the authority to hold
21 licensed psychologists accountable through the mutual
22 recognition of Compact State licenses.

23 ARTICLE II. DEFINITIONS

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

- 1 record.
- 2 B. "Association of State and Provincial Psychology Boards
3 (ASPPB)" means: the recognized membership organization
4 composed of State and Provincial Psychology Regulatory
5 Authorities responsible for the licensure and registration of
6 psychologists throughout the United States and Canada.
- 7 C. "Authority to Practice Interjurisdictional Telepsychology"
8 means: a licensed psychologist's authority to practice
9 telepsychology, within the limits authorized under this
10 Compact, in another Compact State.
- 11 D. "Bylaws" means: those Bylaws established by the Psychology
12 Interjurisdictional Compact Commission pursuant to Section X
13 for its governance, or for directing and controlling its
14 actions and conduct.
- 15 E. "Client/Patient" means: the recipient of psychological
16 services, whether psychological services are delivered in the
17 context of healthcare, corporate, supervision, and/or
18 consulting services.
- 19 F. "Commissioner" means: the voting representative appointed by
20 each State Psychology Regulatory Authority pursuant to Section
21 X.
- 22 G. "Compact State" means: a state, the District of Columbia, or
23 United States territory that has enacted this Compact
24 legislation and which has not withdrawn pursuant to Article
25 XIII, Section C or been terminated pursuant to Article XII,
26 Section B.
- 27 H. "Coordinated Licensure Information System" also referred to as

- 1 "Coordinated Database" means: an integrated process for
2 collecting, storing, and sharing information on psychologists'
3 licensure and enforcement activities related to psychology
4 licensure laws, which is administered by the recognized
5 membership organization composed of State and Provincial
6 Psychology Regulatory Authorities.
- 7 I. "Confidentiality" means: the principle that data or
8 information is not made available or disclosed to unauthorized
9 persons and/or processes.
- 10 J. "Day" means: any part of a day in which psychological work is
11 performed.
- 12 K. "Distant State" means: the Compact State where a psychologist
13 is physically present (not through the use of
14 telecommunications technologies), to provide temporary
15 in-person, face-to-face psychological services.
- 16 L. "E.Passport" means: a certificate issued by the Association of
17 State and Provincial Psychology Boards (ASPPB) that promotes
18 the standardization in the criteria of interjurisdictional
19 telepsychology practice and facilitates the process for
20 licensed psychologists to provide telepsychological services
21 across state lines.
- 22 M. "Executive Board" means: a group of directors elected or
23 appointed to act on behalf of, and within the powers granted to
24 them by, the Commission.
- 25 N. "Home State" means: a Compact State where a psychologist is
26 licensed to practice psychology. If the psychologist is
27 licensed in more than one Compact State and is practicing under

- 1 the Authorization to Practice Interjurisdictional
2 Telepsychology, the Home State is the Compact State where the
3 psychologist is physically present when the telepsychological
4 services are delivered. If the psychologist is licensed in more
5 than one Compact State and is practicing under the Temporary
6 Authorization to Practice, the Home State is any Compact State
7 where the psychologist is licensed.
- 8 O. "Identity History Summary" means: a summary of information
9 retained by the FBI, or other designee with similar authority,
10 in connection with arrests and, in some instances, federal
11 employment, naturalization, or military service.
- 12 P. "In-Person, Face-to-Face" means: interactions in which the
13 psychologist and the client/patient are in the same physical
14 space and which does not include interactions that may occur
15 through the use of telecommunication technologies.
- 16 Q. "Interjurisdictional Practice Certificate (IPC)" means: a
17 certificate issued by the Association of State and Provincial
18 Psychology Boards (ASPPB) that grants temporary authority to
19 practice based on notification to the State Psychology
20 Regulatory Authority of intention to practice temporarily, and
21 verification of one's qualifications for such practice.
- 22 R. "License" means: authorization by a State Psychology
23 Regulatory Authority to engage in the independent practice of
24 psychology, which would be unlawful without the authorization.
- 25 S. "Non-Compact State" means: any State which is not at the time a
26 Compact State.
- 27 T. "Psychologist" means: an individual licensed for the

1 independent practice of psychology.

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

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

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

16 X. "Significant Investigatory Information" means:

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

24 2. investigative information that indicates that the
25 psychologist represents an immediate threat to public
26 health and safety regardless of whether the psychologist
27 has been notified and/or had an opportunity to respond.

- 1 Y. "State" means: a state, commonwealth, territory, or possession
2 of the United States, the District of Columbia.
- 3 Z. "State Psychology Regulatory Authority" means: the Board,
4 office or other agency with the legislative mandate to license
5 and regulate the practice of psychology.
- 6 AA. "Telepsychology" means: the provision of psychological
7 services using telecommunication technologies.
- 8 BB. "Temporary Authorization to Practice" means: a licensed
9 psychologist's authority to conduct temporary in-person,
10 face-to-face practice, within the limits authorized under this
11 Compact, in another Compact State.
- 12 CC. "Temporary In-Person, Face-to-Face Practice" means: where a
13 psychologist is physically present (not through the use of
14 telecommunications technologies), in the Distant State to
15 provide for the practice of psychology for 30 days within a
16 calendar year and based on notification to the Distant State.
- 17 ARTICLE III. HOME STATE LICENSURE
- 18 A. The Home State shall be a Compact State where a psychologist is
19 licensed to practice psychology.
- 20 B. A psychologist may hold one or more Compact State licenses at a
21 time. If the psychologist is licensed in more than one Compact
22 State, the Home State is the Compact State where the
23 psychologist is physically present when the services are
24 delivered as authorized by the Authority to Practice
25 Interjurisdictional Telepsychology under the terms of this
26 Compact.
- 27 C. Any Compact State may require a psychologist not previously

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

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

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

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

27 F. A Home State's license grants Temporary Authorization to

1 Practice to a psychologist in a Distant State only if the
2 Compact State:

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

16 ARTICLE IV. COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

- 17 A. Compact States shall recognize the right of a psychologist,
18 licensed in a Compact State in conformance with Article III, to
19 practice telepsychology in other Compact States (Receiving
20 States) in which the psychologist is not licensed, under the
21 Authority to Practice Interjurisdictional Telepsychology as
22 provided in the Compact.
- 23 B. To exercise the Authority to Practice Interjurisdictional
24 Telepsychology under the terms and provisions of this Compact,
25 a psychologist licensed to practice in a Compact State must:
 - 26 1. Hold a graduate degree in psychology from an institute of
27 higher education that was, at the time the degree was

1 awarded:

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

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

- 14 a. The program, wherever it may be administratively
15 housed, must be clearly identified and labeled as a
16 psychology program. Such a program must specify in
17 pertinent institutional catalogues and brochures its
18 intent to educate and train professional
19 psychologists;
20 b. The psychology program must stand as a recognizable,
21 coherent, organizational entity within the
22 institution;
23 c. There must be a clear authority and primary
24 responsibility for the core and specialty areas
25 whether or not the program cuts across administrative
26 lines;
27 d. The program must consist of an integrated, organized

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

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

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

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

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

1 to Practice Interjurisdictional Telepsychology.

2 ARTICLE V. COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

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

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

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

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

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

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

26 a. The program, wherever it may be administratively
27 housed, must be clearly identified and labeled as a

1 psychology program. Such a program must specify in
2 pertinent institutional catalogues and brochures its
3 intent to educate and train professional
4 psychologists;

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

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

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

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

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

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

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

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

- 1 j. The program includes an acceptable residency as
2 defined by the Rules of the Commission.
- 3 3. Possess a current, full and unrestricted license to
4 practice psychology in a Home State which is a Compact
5 State;
- 6 4. No history of adverse action that violate the Rules of the
7 Commission;
- 8 5. No criminal record history that violates the Rules of the
9 Commission;
- 10 6. Possess a current, active IPC;
- 11 7. Provide attestations in regard to areas of intended
12 practice and work experience and provide a release of
13 information to allow for primary source verification in a
14 manner specified by the Commission; and
- 15 8. Meet other criteria as defined by the Rules of the
16 Commission.
- 17 C. A psychologist practicing into a Distant State under the
18 Temporary Authorization to Practice shall practice within the
19 scope of practice authorized by the Distant State.
- 20 D. A psychologist practicing into a Distant State under the
21 Temporary Authorization to Practice will be subject to the
22 Distant State's authority and law. A Distant State may, in
23 accordance with that state's due process law, limit or revoke a
24 psychologist's Temporary Authorization to Practice in the
25 Distant State and may take any other necessary actions under
26 the Distant State's applicable law to protect the health and
27 safety of the Distant State's citizens. If a Distant State

1 takes action, the state shall promptly notify the Home State
2 and the Commission.

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

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

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

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

22 ARTICLE VII. ADVERSE ACTIONS

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

- 1 B. A Receiving State may take adverse action on a psychologist's
2 Authority to Practice Interjurisdictional Telepsychology
3 within that Receiving State. A Home State may take adverse
4 action against a psychologist based on an adverse action taken
5 by a Distant State regarding temporary in-person, face-to-face
6 practice.
- 7 C. If a Home State takes adverse action against a psychologist's
8 license, that psychologist's Authority to Practice
9 Interjurisdictional Telepsychology is terminated and the
10 E.Passport is revoked. Furthermore, that psychologist's
11 Temporary Authorization to Practice is terminated and the IPC
12 is revoked.
- 13 1. All Home State disciplinary orders which impose adverse
14 action shall be reported to the Commission in accordance
15 with the Rules promulgated by the Commission. A Compact
16 State shall report adverse actions in accordance with the
17 Rules of the Commission.
- 18 2. In the event discipline is reported on a psychologist, the
19 psychologist will not be eligible for telepsychology or
20 temporary in-person, face-to-face practice in accordance
21 with the Rules of the Commission.
- 22 3. Other actions may be imposed as determined by the Rules
23 promulgated by the Commission.
- 24 D. A Home State's Psychology Regulatory Authority shall
25 investigate and take appropriate action with respect to
26 reported inappropriate conduct engaged in by a licensee which
27 occurred in a Receiving State as it would if such conduct had

1 occurred by a licensee within the Home State. In such cases,
2 the Home State's law shall control in determining any adverse
3 action against a psychologist's license.

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

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

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

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

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

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

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

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

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

15 ARTICLE IX. COORDINATED LICENSURE INFORMATION SYSTEM

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

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

27 1. Identifying information;

- 1 2. Licensure data;
- 2 3. Significant investigatory information;
- 3 4. Adverse actions against a psychologist's license;
- 4 5. An indicator that a psychologist's Authority to Practice
- 5 Interjurisdictional Telepsychology and/or Temporary
- 6 Authorization to Practice is revoked;
- 7 6. Non-confidential information related to alternative
- 8 program participation information;
- 9 7. Any denial of application for licensure, and the reasons
- 10 for such denial; and
- 11 8. Other information which may facilitate the administration
- 12 of this Compact, as determined by the Rules of the
- 13 Commission.
- 14 C. The Coordinated Database administrator shall promptly notify
- 15 all Compact States of any adverse action taken against, or
- 16 significant investigative information on, any licensee in a
- 17 Compact State.
- 18 D. Compact States reporting information to the Coordinated
- 19 Database may designate information that may not be shared with
- 20 the public without the express permission of the Compact State
- 21 reporting the information.
- 22 E. Any information submitted to the Coordinated Database that is
- 23 subsequently required to be expunged by the law of the Compact
- 24 State reporting the information shall be removed from the
- 25 Coordinated Database.

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

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

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

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

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

17 B. Membership, Voting, and Meetings

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

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

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

- 1 c. Designee empowered with the appropriate delegate
2 authority to act on behalf of the Compact State.
- 3 2. Any Commissioner may be removed or suspended from office as
4 provided by the law of the state from which the
5 Commissioner is appointed. Any vacancy occurring in the
6 Commission shall be filled in accordance with the laws of
7 the Compact State in which the vacancy exists.
- 8 3. Each Commissioner shall be entitled to one (1) vote with
9 regard to the promulgation of Rules and creation of Bylaws
10 and shall otherwise have an opportunity to participate in
11 the business and affairs of the Commission. A Commissioner
12 shall vote in person or by such other means as provided in
13 the Bylaws. The Bylaws may provide for Commissioners'
14 participation in meetings by telephone or other means of
15 communication.
- 16 4. The Commission shall meet at least once during each
17 calendar year. Additional meetings shall be held as set
18 forth in the Bylaws.
- 19 5. All meetings shall be open to the public, and public notice
20 of meetings shall be given in the same manner as required
21 under the rulemaking provisions in Article XI.
- 22 6. The Commission may convene in a closed, non-public meeting
23 if the Commission must discuss:
- 24 a. Non-compliance of a Compact State with its obligations
25 under the Compact;
- 26 b. The employment, compensation, discipline or other
27 personnel matters, practices or procedures related to

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

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

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

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

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

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

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

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

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

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

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

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

16 1. Establishing the fiscal year of the Commission;

17 2. Providing reasonable standards and procedures:

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

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

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

- 1 and proprietary information, including trade secrets. The
2 Commission may meet in closed session only after a
3 majority of the Commissioners vote to close a meeting to
4 the public in whole or in part. As soon as practicable, the
5 Commission must make public a copy of the vote to close the
6 meeting revealing the vote of each Commissioner with no
7 proxy votes allowed;
- 8 4. Establishing the titles, duties and authority and
9 reasonable procedures for the election of the officers of
10 the Commission;
- 11 5. Providing reasonable standards and procedures for the
12 establishment of the personnel policies and programs of
13 the Commission. Notwithstanding any civil service or other
14 similar law of any Compact State, the Bylaws shall
15 exclusively govern the personnel policies and programs of
16 the Commission;
- 17 6. Promulgating a Code of Ethics to address permissible and
18 prohibited activities of Commission members and
19 employees;
- 20 7. Providing a mechanism for concluding the operations of the
21 Commission and the equitable disposition of any surplus
22 funds that may exist after the termination of the Compact
23 after the payment and/or reserving of all of its debts and
24 obligations;
- 25 8. The Commission shall publish its Bylaws in a convenient
26 form and file a copy thereof and a copy of any amendment
27 thereto, with the appropriate agency or officer in each of

1 the Compact States;

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

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

7 D. The Commission shall have the following powers:

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

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

17 3. To purchase and maintain insurance and bonds;

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

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

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

1 telepsychology practice.

2 E. The Executive Board

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

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

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

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

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

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

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

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

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

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

26 c. Prepare and recommend the budget;

27 d. Maintain financial records on behalf of the

- 1 Commission;
2 e. Monitor Compact compliance of member states and
3 provide compliance reports to the Commission;
4 f. Establish additional committees as necessary; and
5 g. Other duties as provided in Rules or Bylaws.

6 F. Financing of the Commission

- 7 1. The Commission shall pay, or provide for the payment of the
8 reasonable expenses of its establishment, organization
9 and ongoing activities.
10 2. The Commission may accept any and all appropriate revenue
11 sources, donations and grants of money, equipment,
12 supplies, materials and services.
13 3. The Commission may levy on and collect an annual assessment
14 from each Compact State or impose fees on other parties to
15 cover the cost of the operations and activities of the
16 Commission and its staff which must be in a total amount
17 sufficient to cover its annual budget as approved each
18 year for which revenue is not provided by other sources.
19 The aggregate annual assessment amount shall be allocated
20 based upon a formula to be determined by the Commission
21 which shall promulgate a rule binding upon all Compact
22 States.
23 4. The Commission shall not incur obligations of any kind
24 prior to securing the funds adequate to meet the same; nor
25 shall the Commission pledge the credit of any of the
26 Compact States, except by and with the authority of the
27 Compact State.

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

10 G. Qualified Immunity, Defense, and Indemnification

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

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

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

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

23 ARTICLE XI. RULEMAKING

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

- 1 B. If a majority of the legislatures of the Compact States rejects
2 a rule, by enactment of a statute or resolution in the same
3 manner used to adopt the Compact, then such rule shall have no
4 further force and effect in any Compact State.
- 5 C. Rules or amendments to the rules shall be adopted at a regular
6 or special meeting of the Commission.
- 7 D. Prior to promulgation and adoption of a final rule or Rules by
8 the Commission, and at least sixty (60) days in advance of the
9 meeting at which the rule will be considered and voted upon,
10 the Commission shall file a Notice of Proposed Rulemaking:
11 1. On the website of the Commission; and
12 2. On the website of each Compact States' Psychology
13 Regulatory Authority or the publication in which each
14 state would otherwise publish proposed rules.
- 15 E. The Notice of Proposed Rulemaking shall include:
16 1. The proposed time, date, and location of the meeting in
17 which the rule will be considered and voted upon;
18 2. The text of the proposed rule or amendment and the reason
19 for the proposed rule;
20 3. A request for comments on the proposed rule from any
21 interested person; and
22 4. The manner in which interested persons may submit notice to
23 the Commission of their intention to attend the public
24 hearing and any written comments.
- 25 F. Prior to adoption of a proposed rule, the Commission shall
26 allow persons to submit written data, facts, opinions and
27 arguments, which shall be made available to the public.

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

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

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

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

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

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

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

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

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

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

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

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

19 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

20 A. Oversight

- 21 1. The Executive, Legislative and Judicial branches of state
22 government in each Compact State shall enforce this
23 Compact and take all actions necessary and appropriate to
24 effectuate the Compact's purposes and intent. The
25 provisions of this Compact and the rules promulgated
26 hereunder shall have standing as statutory law.
- 27 2. All courts shall take judicial notice of the Compact and

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

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

11 B. Default, Technical Assistance, and Termination

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

16 a. Provide written notice to the defaulting state and
17 other Compact States of the nature of the default, the
18 proposed means of remedying the default and/or any
19 other action to be taken by the Commission; and

20 b. Provide remedial training and specific technical
21 assistance regarding the default.

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

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

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

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

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

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

24 C. Dispute Resolution

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

1 Non-Compact States.

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

5 D. Enforcement

- 6 1. The Commission, in the reasonable exercise of its
7 discretion, shall enforce the provisions and Rules of this
8 Compact.
- 9 2. By majority vote, the Commission may initiate legal action
10 in the United States District Court for the State of
11 Georgia or the federal district where the Compact has its
12 principal offices against a Compact State in default to
13 enforce compliance with the provisions of the Compact and
14 its promulgated Rules and Bylaws. The relief sought may
15 include both injunctive relief and damages. In the event
16 judicial enforcement is necessary, the prevailing member
17 shall be awarded all costs of such litigation, including
18 reasonable attorney's fees.
- 19 3. The remedies herein shall not be the exclusive remedies of
20 the Commission. The Commission may pursue any other
21 remedies available under federal or state law.

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

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

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

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

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

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

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

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

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

1 States.

2 ARTICLE XIV. CONSTRUCTION AND SEVERABILITY

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

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

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

21 (b) The Coordinated Licensure Information System may not
22 share personally identifiable information with a state that is not
23 a party to the compact unless the state agrees to not disclose that
24 information to any other person.

25 SECTION 2.029. Sections 502.002(2) and (5), Occupations
26 Code, are amended to read as follows:

27 (2) "Executive council" [~~"Commissioner"~~] means the

1 Texas Behavioral Health Executive Council [~~commissioner of state~~
2 ~~health services~~].

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

7 SECTION 2.030. The heading to Section 502.053, Occupations
8 Code, is amended to read as follows:

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

10 SECTION 2.031. Sections 502.053(b) and (c), Occupations
11 Code, are amended to read as follows:

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

18 (1) the person is an officer, employee, or paid
19 consultant of a Texas trade association in the field of health
20 services; or

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

24 (c) A person may not be a member of the board [~~or act as~~
25 ~~general counsel to the board or the department~~] if the person is
26 required to register as a lobbyist under Chapter 305, Government
27 Code, because of the person's activities for compensation on behalf

1 of a profession related to the operation of the board.

2 SECTION 2.032. Section 502.056(c), Occupations Code, is
3 amended to read as follows:

4 (c) If the executive director of the executive council has
5 knowledge that a potential ground for removal exists, the executive
6 director shall notify the presiding officer of the board of the
7 potential ground. The presiding officer shall then notify the
8 governor and the attorney general that a potential ground for
9 removal exists. If the potential ground for removal involves the
10 presiding officer, the executive director shall notify the next
11 highest ranking officer of the board, who shall then notify the
12 governor and attorney general that a potential ground for removal
13 exists.

14 SECTION 2.033. Section 502.059, Occupations Code, is
15 amended by amending Subsection (b) and adding Subsection (d) to
16 read as follows:

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

- 19 (1) the law governing board operations [~~this chapter~~];
20 (2) the programs, [~~operated by the board,~~
21 [~~(3) the role and~~] functions, [~~of the board,~~
22 [~~(4) the~~] rules, and [~~of the board, with an emphasis on~~
23 ~~the rules that relate to disciplinary and investigatory authority,~~
24 [~~(5) the current~~] budget of [~~for~~] the board;
25 (3) the scope of and limitations on the rulemaking
26 authority of the board;
27 (4) the types of board rules, interpretations, and

1 enforcement actions that may implicate federal antitrust law by
2 limiting competition or impacting prices charged by persons engaged
3 in a profession or business the board regulates, including any
4 rule, interpretation, or enforcement action that:

5 (A) regulates the scope of practice of persons in
6 a profession or business the board regulates;

7 (B) restricts advertising by persons in a
8 profession or business the board regulates;

9 (C) affects the price of goods or services
10 provided by persons in a profession or business the board
11 regulates; or

12 (D) restricts participation in a profession or
13 business the board regulates;

14 (5) [~~6~~] the results of the most recent formal audit
15 of the board;

16 (6) [~~7~~] the requirements of:

17 (A) laws relating to open meetings, public
18 information, administrative procedure, and disclosure of conflicts
19 [~~conflict~~] of interest; and

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

22 (7) [~~8~~] any applicable ethics policies adopted by
23 the board or the Texas Ethics Commission.

24 (d) The executive director of the executive council shall
25 create a training manual that includes the information required by
26 Subsection (b). The executive director shall distribute a copy of
27 the training manual annually to each board member. Each member of

1 the board shall sign and submit to the executive director a
2 statement acknowledging that the member received and has reviewed
3 the training manual.

4 SECTION 2.034. The heading to Subchapter D, Chapter 502,
5 Occupations Code, is amended to read as follows:

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

7 SECTION 2.035. Section 502.151, Occupations Code, is
8 amended to read as follows:

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

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

13 (2) adopt a code of professional ethics for license
14 holders.

15 SECTION 2.036. Subchapter D, Chapter 502, Occupations Code,
16 is amended by adding Section 502.1515 to read as follows:

17 Sec. 502.1515. BOARD DUTIES. The board shall propose to the
18 executive council:

19 (1) rules regarding:

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

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

25 (C) continuing education requirements for
26 license holders; and

27 (2) a schedule of sanctions for violations of this

1 chapter or rules adopted under this chapter.

2 SECTION 2.037. Section 502.155, Occupations Code, is
3 amended to read as follows:

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

6 (1) determine the times and places for licensing
7 examinations;

8 (2) offer examinations at least semiannually; and

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

11 SECTION 2.038. Section 502.159, Occupations Code, is
12 amended to read as follows:

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

22 SECTION 2.039. Section 502.252, Occupations Code, is
23 amended to read as follows:

24 Sec. 502.252. LICENSE APPLICATION. (a) An applicant for a
25 license must:

26 (1) file a written application with the executive
27 council [~~board~~] on a form prescribed by the executive council

1 ~~board~~; and

2 (2) pay the appropriate application fee.

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

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

6 (2) have completed a graduate internship in marriage
7 and family therapy, or an equivalent internship, as approved by the
8 executive council ~~board~~;

9 (3) pass the license examination and jurisprudence
10 examination determined by the board;

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

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

19 ~~(6)]~~ have not been convicted of a felony or a crime
20 involving moral turpitude;

21 (6) ~~(7)]~~ not use drugs or alcohol to an extent that
22 affects the applicant's professional competency;

23 (7) ~~(8)]~~ not have had a license or certification
24 revoked by a licensing agency or by a certifying professional
25 organization; and

26 (8) ~~(9)]~~ not have engaged in fraud or deceit in
27 applying for a license under this chapter.

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

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

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

8 ~~[(A)]~~ at least 1,500 hours ~~[consist]~~ of direct
9 clinical services, including a minimum number of ~~[, and~~

10 ~~[(B) at least 750]~~ hours providing ~~[consist of]~~
11 direct clinical services to couples or families as required by
12 executive council rule; and

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

17 SECTION 2.040. Sections 502.253(a), (b), and (c),
18 Occupations Code, are amended to read as follows:

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

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

26 (c) An applicant for a license as a licensed marriage and
27 family therapist associate is eligible to take the examination if

1 the applicant:

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

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

8 SECTION 2.041. Sections 502.254(b) and (d), Occupations
9 Code, are amended to read as follows:

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

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

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

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

20 SECTION 2.042. Section 502.2541, Occupations Code, is
21 amended to read as follows:

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

1 shall administer the examination at least twice each calendar year.

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

7 SECTION 2.043. Section 502.2545, Occupations Code, is
8 amended to read as follows:

9 Sec. 502.2545. WAIVER OF EXAMINATION FOR CERTAIN
10 APPLICANTS. (a) The executive council [~~board~~] may waive the
11 requirement that an applicant for a license as a licensed marriage
12 and family therapist pass the examination required by Section
13 502.254 if the applicant:

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

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

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

1 SECTION 2.044. Section 502.257, Occupations Code, is
2 amended to read as follows:

3 Sec. 502.257. ISSUANCE OF LICENSE. The executive council
4 [~~board~~] shall issue a license as a licensed marriage and family
5 therapist associate or licensed marriage and family therapist, as
6 appropriate, to an applicant who:

- 7 (1) complies with the requirements of this chapter;
8 (2) passes the licensing examination, unless the
9 executive council [~~board~~] exempts the person from the examination
10 requirement; and
11 (3) pays the required fees.

12 SECTION 2.045. Section 502.258(a), Occupations Code, is
13 amended to read as follows:

14 (a) The executive council [~~board~~] by rule may provide for
15 the issuance of a temporary license.

16 SECTION 2.046. Section 502.259, Occupations Code, is
17 amended to read as follows:

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

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

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

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

6 (A) is recognized by the executive council
7 ~~[board]~~; and

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

9 (3) be sponsored by a person licensed by the executive
10 council ~~[board]~~ with whom the provisional license holder may
11 practice under this section.

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

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

24 (e) The executive council ~~[board]~~ shall issue a license
25 under Section 502.257 to a provisional license holder if:

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

1 (2) the executive council [~~board~~] verifies that the
2 provisional license holder satisfies the academic and experience
3 requirements of this chapter; and

4 (3) the provisional license holder satisfies any other
5 license requirements under this chapter.

6 SECTION 2.047. Sections 502.260(a), (b), and (d),
7 Occupations Code, are amended to read as follows:

8 (a) The executive council [~~board~~] may place a license
9 holder's license under this chapter on inactive status if the
10 holder is not actively engaged in the practice of marriage and
11 family therapy and the holder submits a written request to the
12 executive council [~~board~~] before the expiration of the holder's
13 license.

14 (b) The executive council [~~board~~] shall maintain a list of
15 each license holder whose license is on inactive status.

16 (d) The executive council [~~board~~] shall remove the license
17 holder's license from inactive status if the person:

18 (1) notifies the executive council [~~board~~] in writing
19 that the person intends to return to active practice;

20 (2) pays an administrative fee; and

21 (3) complies with educational or other requirements
22 the executive council [~~board~~] adopts by rule.

23 SECTION 2.048. Section 502.261(b), Occupations Code, is
24 amended to read as follows:

25 (b) Each license holder shall notify the executive council
26 [~~board~~] of the license holder's current address.

27 SECTION 2.049. Section 502.301(a), Occupations Code, is

1 amended to read as follows:

2 (a) A license issued under this chapter is subject to
3 biennial renewal. The executive council [~~board~~] shall adopt a
4 system under which licenses expire on various dates during the
5 year.

6 SECTION 2.050. The heading to Subchapter H, Chapter 502,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER H. DISCIPLINARY ACTIONS [~~AND PROCEDURES~~]

9 SECTION 2.051. Section 502.351, Occupations Code, is
10 amended to read as follows:

11 Sec. 502.351. GROUNDS FOR DISCIPLINARY ACTIONS. The
12 executive council [~~board~~] shall take disciplinary action under
13 Subchapter G, Chapter 507, against [~~reprimand~~] a license holder
14 who [~~, place on probation a person whose license has been suspended,~~
15 ~~refuse to renew a person's license, or suspend or revoke a holder's~~
16 ~~license if the person~~]:

17 (1) is convicted of a misdemeanor involving moral
18 turpitude or a felony;

19 (2) obtains or attempts to obtain a license by fraud or
20 deception;

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

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

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

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

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

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

5 (9) violates this chapter or a rule or code of ethics
6 adopted under this chapter; or

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

9 SECTION 2.052. Section 502.357, Occupations Code, is
10 amended to read as follows:

11 Sec. 502.357. GROUNDS FOR REFUSING RENEWAL. The executive
12 council [~~board~~] may refuse to renew the license of a person who
13 fails to pay an administrative penalty imposed under Subchapter H,
14 Chapter 507, [±] unless enforcement of the penalty is stayed or a
15 court has ordered that the administrative penalty is not owed.

16 SECTION 2.053. Section 502.358, Occupations Code, is
17 amended to read as follows:

18 Sec. 502.358. REFUND. (a) Subject to Subsection (b), the
19 executive council [~~board~~] may order a license holder to pay a refund
20 to a consumer as provided in an agreement resulting from an informal
21 settlement conference instead of or in addition to imposing an
22 administrative penalty under Subchapter H, Chapter 507 [~~this~~
23 ~~chapter~~].

24 (b) The amount of a refund ordered as provided in an
25 agreement resulting from an informal settlement conference may not
26 exceed the amount the consumer paid to the license holder for a
27 service regulated by this chapter. The executive council [~~board~~]

1 may not require payment of other damages or estimate harm in a
2 refund order.

3 SECTION 2.054. The heading to Subchapter J, Chapter 502,
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER J. CRIMINAL PENALTY [~~OTHER PENALTIES AND ENFORCEMENT~~
6 ~~PROVISIONS~~]

7 SECTION 2.055. Section 503.002(2), Occupations Code, is
8 amended to read as follows:

9 (2) "Executive council" [~~"Department"~~] means the
10 Texas Behavioral Health Executive Council [~~Department of State~~
11 ~~Health Services~~].

12 SECTION 2.056. The heading to Section 503.104, Occupations
13 Code, is amended to read as follows:

14 Sec. 503.104. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS. /

15 SECTION 2.057. Sections 503.104(b) and (c), Occupations
16 Code, are amended to read as follows:

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

23 (1) the person is an officer, employee, manager, or
24 paid consultant of a Texas trade association in the field of health
25 care; or

26 (2) the person's spouse is an officer, manager, or paid
27 consultant of a Texas trade association in the field of mental

1 health.

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

7 SECTION 2.058. Section 503.107(c), Occupations Code, is
8 amended to read as follows:

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

19 SECTION 2.059. Section 503.110, Occupations Code, is
20 amended by amending Subsection (b) and adding Subsection (d) to
21 read as follows:

22 (b) The training program must provide the person with
23 information regarding:

- 24 (1) the law governing board operations;
25 (2) [~~this chapter and~~] the [~~board's~~] programs,
26 functions, rules, and budget of the board;
27 (3) the scope of and limitations on the rulemaking

1 authority of the board;

2 (4) the types of board rules, interpretations, and
3 enforcement actions that may implicate federal antitrust law by
4 limiting competition or impacting prices charged by persons engaged
5 in a profession or business the board regulates, including any
6 rule, interpretation, or enforcement action that:

7 (A) regulates the scope of practice of persons in
8 a profession or business the board regulates;

9 (B) restricts advertising by persons in a
10 profession or business the board regulates;

11 (C) affects the price of goods or services
12 provided by persons in a profession or business the board
13 regulates; or

14 (D) restricts participation in a profession or
15 business the board regulates;

16 (5) [(2)] the results of the most recent formal audit
17 of the board;

18 (6) [(3)] the requirements of:

19 (A) laws relating to open meetings, public
20 information, administrative procedure, and disclosure of conflicts
21 of interest [~~conflicts-of-interest~~]; and

22 (B) other laws applicable to members of the board
23 in performing their duties; and

24 (7) [(4)] any applicable ethics policies adopted by
25 the board or the Texas Ethics Commission.

26 (d) The executive director of the executive council shall
27 create a training manual that includes the information required by

1 Subsection (b). The executive director shall distribute a copy of
2 the training manual annually to each board member. Each member of
3 the board shall sign and submit to the executive director a
4 statement acknowledging that the member received and has reviewed
5 the training manual.

6 SECTION 2.060. The heading to Subchapter E, Chapter 503,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER E. [~~BOARD~~] POWERS AND DUTIES

9 SECTION 2.061. Section 503.201, Occupations Code, is
10 amended to read as follows:

11 Sec. 503.201. GENERAL POWERS AND DUTIES OF EXECUTIVE
12 COUNCIL. (a) The executive council [~~board~~] shall:

13 (1) determine the qualifications and fitness of an
14 applicant for a license, license renewal, or provisional license;
15 (2) examine for, deny, approve, issue, revoke,
16 suspend, suspend on an emergency basis, place on probation, and
17 renew the license of an applicant or license holder under this
18 chapter;

19 (3) adopt and publish a code of ethics; and

20 (4) by rule adopt a list of authorized counseling
21 methods or practices that a license holder may undertake or
22 perform[~~, and~~

23 [~~(5) adopt an official seal~~].

24 (b) The executive council [~~board~~] may request and shall
25 receive the assistance of a state educational institution or other
26 state agency.

27 SECTION 2.062. Subchapter E, Chapter 503, Occupations Code,

1 is amended by adding Section 503.2015 to read as follows:

2 Sec. 503.2015. BOARD DUTIES. The board shall propose to the
3 executive council:

4 (1) rules regarding:

5 (A) the qualifications necessary to obtain a
6 license, including rules limiting an applicant's eligibility for a
7 license based on the applicant's criminal history;

8 (B) the scope of practice of and standards of
9 care and ethical practice for professional counseling; and

10 (C) continuing education requirements for
11 license holders; and

12 (2) a schedule of sanctions for violations of this
13 chapter or rules adopted under this chapter.

14 SECTION 2.063. Section 503.302, Occupations Code, is
15 amended to read as follows:

16 Sec. 503.302. QUALIFICATIONS FOR LICENSE. (a) A person
17 qualifies for a license under this chapter if the person:

18 (1) is at least 18 years old;

19 (2) has a master's or doctoral degree in counseling or
20 a related field;

21 (3) has successfully completed a graduate degree at a
22 regionally accredited institution of higher education and the
23 number of graduate semester hours required by executive council
24 ~~board~~ rule, which may not be less than 48 hours and must include
25 300 clock hours of supervised practicum that:

26 (A) is primarily counseling in nature; and

27 (B) meets the specific academic course content

1 and training standards established by the executive council
2 [~~board~~];

3 (4) has completed the number of supervised experience
4 hours required by executive council [~~board~~] rule, which may not be
5 less than 3,000 hours working in a counseling setting that meets the
6 requirements established by the executive council [~~board~~] after the
7 completion of the graduate program described by Subdivision (3);

8 (5) [~~except as provided by Subsection (b),~~] passes the
9 license examination and jurisprudence examination required by this
10 chapter;

11 (6) submits an application as required by the
12 executive council [~~board~~], accompanied by the required application
13 fee; and

14 (7) meets any other requirement prescribed by the
15 executive council [~~board~~].

16 (b) [~~(d)~~] In establishing the standards described by
17 Subsection (a)(3)(B), the executive council [~~board~~] shall review
18 and consider the standards as developed by the appropriate
19 professional association.

20 (c) [~~(e)~~] The executive council [~~board~~] may require the
21 statements on a license application to be made under oath.

22 SECTION 2.064. Subchapter G, Chapter 503, Occupations Code,
23 is amended by adding Section 503.3025 to read as follows:

24 Sec. 503.3025. EXPERIENCE REQUIRED TO ACT AS SUPERVISOR.
25 The executive council shall allow a license holder who has
26 practiced as a licensed counselor in another state to count that
27 out-of-state experience toward any experience that the license

1 holder is required by executive council rule to obtain to act as a
2 supervisor under this chapter if the executive council determines
3 that the other state has license requirements substantially
4 equivalent to the requirements of this chapter.

5 SECTION 2.065. Section 503.303(b), Occupations Code, is
6 amended to read as follows:

7 (b) The executive council [~~board~~] shall accept an
8 individual course from an art therapy program accredited through
9 the American Art Therapy Association as satisfying the education
10 requirements under Section 503.302(a)(3) if at least 75 percent of
11 the course content is substantially equivalent to the content of a
12 course required by executive council [~~board~~] rule.

13 SECTION 2.066. Section 503.304, Occupations Code, is
14 amended to read as follows:

15 Sec. 503.304. REVIEW OF APPLICATION. (a) Not later than
16 the 30th day before the examination date, after investigation of a
17 license application and review of other evidence submitted, the
18 executive council [~~board~~] shall notify the applicant that the
19 application and evidence submitted are:

- 20 (1) satisfactory and accepted; or
21 (2) unsatisfactory and rejected.

22 (b) If the executive council [~~board~~] rejects an
23 application, the executive council [~~board~~] shall state in the
24 notice the reasons for the rejection.

25 SECTION 2.067. Section 503.305, Occupations Code, is
26 amended to read as follows:

27 Sec. 503.305. LICENSE EXAMINATION. (a) The executive

1 council [~~board~~] shall administer examinations to determine the
2 competence of qualified applicants at least twice each calendar
3 year.

4 (b) The executive council [~~board~~] shall contract with a
5 nationally recognized testing organization to develop and
6 administer a written professional counselor licensing examination
7 to applicants who apply for a license under this chapter.

8 SECTION 2.068. Section 503.3055, Occupations Code, is
9 amended to read as follows:

10 Sec. 503.3055. JURISPRUDENCE EXAMINATION. (a) The board
11 shall develop [~~and administer at least twice each calendar year~~] a
12 jurisprudence examination to determine an applicant's knowledge of
13 this chapter, executive council [~~board~~] rules, and any other
14 applicable laws of this state affecting the applicant's
15 professional counseling practice. The executive council shall
16 administer the examination at least twice each calendar year.

17 (b) The executive council [~~board~~] shall adopt rules to
18 implement this section, including rules related to the development
19 and administration of the examination, examination fees,
20 guidelines for reexamination, grading the examination, and
21 providing notice of examination results.

22 SECTION 2.069. Section 503.308, Occupations Code, is
23 amended to read as follows:

24 Sec. 503.308. TEMPORARY LICENSE. (a) The executive
25 council [~~board~~] by rule may provide for the issuance of a temporary
26 license. Rules adopted under this subsection must provide a time
27 limit for the period a temporary license is valid.

1 (b) The executive council [~~board~~] by rule may adopt a system
2 under which a temporary license may be issued to a person who:

3 (1) meets all of the academic requirements for
4 licensing; and

5 (2) enters into a supervisory agreement with a
6 supervisor approved by the executive council [~~board~~].

7 SECTION 2.070. Sections 503.310(a), (c), and (d),
8 Occupations Code, are amended to read as follows:

9 (a) On application and payment of applicable fees, the
10 executive council [~~board~~] may issue a provisional license to a
11 person who holds a license as a counselor or art therapist issued by
12 another state or by a jurisdiction acceptable to the executive
13 council [~~board~~].

14 (c) An applicant is not required to comply with Subsection
15 (b)(3) if the executive council [~~board~~] determines that compliance
16 with that subsection is a hardship to the applicant.

17 (d) A provisional license is valid until the date the
18 executive council [~~board~~] approves or denies the provisional
19 license holder's application for a license under Section 503.311.

20 SECTION 2.071. Section 503.311, Occupations Code, is
21 amended to read as follows:

22 Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
23 HOLDER. (a) The executive council [~~board~~] shall issue a license to
24 the holder of a provisional license who applies for a license if:

25 (1) the executive council [~~board~~] verifies that the
26 applicant has the academic and experience requirements for a
27 regular license under this chapter; and

1 (2) the applicant satisfies any other license
2 requirements under this chapter.

3 (b) The executive council [~~board~~] must complete the
4 processing of a provisional license holder's application for a
5 license not later than the later of:

6 (1) the 180th day after the date the provisional
7 license is issued; or

8 (2) the date licenses are issued following completion
9 of the next licensing and jurisprudence examinations
10 [~~examination~~].

11 SECTION 2.072. Sections 503.312(a) and (c), Occupations
12 Code, are amended to read as follows:

13 (a) On request of a person licensed under this chapter, the
14 executive council [~~board~~] shall place the person's license on
15 inactive status.

16 (c) A person whose license is inactive may apply to
17 reactivate the license. The executive council [~~board~~] shall
18 reactivate the license if the applicant:

19 (1) pays a license fee;

20 (2) is not in violation of this chapter when the
21 applicant applies to reactivate the license; and

22 (3) fulfills the requirements provided by executive
23 council [~~board~~] rule for the holder of an inactive license.

24 SECTION 2.073. Section 503.313, Occupations Code, is
25 amended to read as follows:

26 Sec. 503.313. RETIREMENT STATUS. The executive council
27 [~~board~~] by rule may adopt a system for placing a person licensed

1 under this chapter on retirement status.

2 SECTION 2.074. Section 503.314(b), Occupations Code, is
3 amended to read as follows:

4 (b) A license certificate issued by the executive council
5 [~~board~~] is the property of the executive council [~~board~~] and must be
6 surrendered on demand.

7 SECTION 2.075. Section 503.351, Occupations Code, is
8 amended to read as follows:

9 Sec. 503.351. RENEWAL; ELIGIBILITY. A person licensed
10 under this chapter may renew the license biennially if the person:

11 (1) is not in violation of this chapter when the person
12 applies for renewal; and

13 (2) fulfills the continuing education requirements
14 established by the executive council [~~board~~].

15 SECTION 2.076. Section 503.352, Occupations Code, is
16 amended to read as follows:

17 Sec. 503.352. LICENSE EXPIRATION DATE. The executive
18 council [~~board~~] shall adopt a system under which licenses expire on
19 various dates during the year. On renewal of the license on the
20 expiration date, the total license renewal fee is payable.

21 SECTION 2.077. Section 503.353, Occupations Code, is
22 amended to read as follows:

23 Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Not later than
24 the 30th day before the expiration date of a person's license, the
25 executive council [~~board~~] shall send written notice of the
26 impending license expiration to the person at the person's last
27 known address according to the executive council's [~~board's~~]

1 records.

2 SECTION 2.078. The heading to Subchapter I, Chapter 503,
3 Occupations Code, is amended to read as follows:

4 SUBCHAPTER I. DISCIPLINARY ACTIONS [~~PROCEDURES~~]

5 SECTION 2.079. Section 503.401(a), Occupations Code, is
6 amended to read as follows:

7 (a) A person licensed under this chapter is subject to
8 disciplinary action under Subchapter G, Chapter 507, [~~this section~~]
9 if the person:

10 (1) violates this chapter or a rule or code of ethics
11 adopted under this chapter [~~by the board~~];

12 (2) commits an act for which the license holder would
13 be liable under Chapter 81, Civil Practice and Remedies Code;

14 (3) is legally committed to an institution because of
15 mental incompetence from any cause; or

16 (4) directly or indirectly offers to pay or agrees to
17 accept remuneration to or from any person for securing or
18 soliciting a patient or patronage.

19 SECTION 2.080. Section 503.407, Occupations Code, is
20 amended to read as follows:

21 Sec. 503.407. REFUND. (a) Subject to Subsection (b), the
22 executive council [~~board~~] may order a license holder to pay a refund
23 to a consumer as provided in an agreement resulting from an informal
24 settlement conference instead of or in addition to imposing an
25 administrative penalty under Subchapter H, Chapter 507 [~~this~~
26 ~~chapter~~].

27 (b) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement conference may not
2 exceed the amount the consumer paid to the license holder for a
3 service regulated by this chapter. The executive council [~~board~~]
4 may not require payment of other damages or estimate harm in a
5 refund order.

6 SECTION 2.081. Section 503.453, Occupations Code, is
7 amended to read as follows:

8 Sec. 503.453. REPORT OF ALLEGED OFFENSE. The executive
9 council [~~board~~] shall notify the appropriate prosecuting attorney
10 of an alleged offense committed under this chapter.

11 SECTION 2.082. Section 505.002, Occupations Code, is
12 amended to read as follows:

13 Sec. 505.002. DEFINITIONS. In this chapter:

14 (1) [~~2~~] "Board" means the Texas State Board of
15 Social Worker Examiners.

16 (2) [~~3~~] "Council on Social Work Education" means the
17 national organization that is primarily responsible for the
18 accreditation of schools of social work in the United States or its
19 successor approved by the executive council [~~board~~].

20 (3) "Executive council" means the Texas Behavioral
21 Health Executive Council.

22 (4) [~~"Department" means the Department of State Health~~
23 ~~Services.~~

24 [~~4-a~~] "Licensed baccalaureate social worker" means
25 a person who holds a baccalaureate social worker license issued [~~by~~
26 ~~the board~~] under this chapter.

27 (5) [~~4-b~~] "Licensed clinical social worker" means a

1 person who holds a clinical social worker license issued [~~by the~~
2 ~~board~~] under this chapter.

3 (6) [~~(5)~~] "Licensed master social worker" means a
4 person who holds a master social worker license issued [~~by the~~
5 ~~board~~] under this chapter.

6 (7) [~~(6)~~] "Licensed social worker" means a person who
7 holds a social worker license issued [~~by the board~~] under this
8 chapter.

9 (8) [~~(9)~~] "Social worker" means a person who holds any
10 license issued [~~by the board~~] under this chapter.

11 SECTION 2.083. Section 505.102(b), Occupations Code, is
12 amended to read as follows:

13 (b) A person is not eligible for appointment as a public
14 member of the board if:

15 (1) the person is registered, certified, or licensed
16 by an occupational regulatory agency in the field of health care;

17 (2) the person's spouse is registered, certified, or
18 licensed by an occupational regulatory agency in the field of
19 mental health; or

20 (3) the person or the person's spouse:

21 (A) is employed by or participates in the
22 management of a business entity or other organization regulated by
23 or receiving funds from the board or executive council
24 [~~department~~];

25 (B) owns or controls, directly or indirectly,
26 more than a 10 percent interest in a business entity or other
27 organization regulated by or receiving funds from the board or

1 executive council [~~department~~]; or

2 (C) uses or receives a substantial amount of
3 tangible goods, services, or funds from the board or executive
4 council [~~department~~], other than compensation or reimbursement
5 authorized by law for board membership, attendance, or expenses.

6 SECTION 2.084. The heading to Section 505.103, Occupations
7 Code, is amended to read as follows:

8 Sec. 505.103. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

9 SECTION 2.085. Sections 505.103(b) and (c), Occupations
10 Code, are amended to read as follows:

11 (b) A person may not be a member of the board [~~and may not be~~
12 ~~an employee of the department employed in a "bona fide executive,~~
13 ~~administrative, or professional capacity," as that phrase is used~~
14 ~~for purposes of establishing an exemption to the overtime~~
15 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~
16 ~~U.S.C. Section 201 et seq.)~~] if:

17 (1) the person is an officer, employee, or paid
18 consultant of a Texas trade association in the field of health care;
19 or

20 (2) the person's spouse is an officer, manager, or paid
21 consultant of a Texas trade association in the field of mental
22 health.

23 (c) A person may not be a member of the board [~~or act as~~
24 ~~general counsel to the board or the department~~] if the person is
25 required to register as a lobbyist under Chapter 305, Government
26 Code, because of the person's activities for compensation on behalf
27 of a profession related to the operation of the board.

1 SECTION 2.086. Section 505.109, Occupations Code, is
2 amended by amending Subsection (b) and adding Subsection (d) to
3 read as follows:

4 (b) The training program must provide the person with
5 information regarding:

6 (1) the law governing [~~legislation that created the~~
7 board operations;

8 (2) [~~and~~] the [~~board's~~] programs, functions, rules,
9 and budget of the board;

10 (3) the scope of and limitations on the rulemaking
11 authority of the board;

12 (4) the types of board rules, interpretations, and
13 enforcement actions that may implicate federal antitrust law by
14 limiting competition or impacting prices charged by persons engaged
15 in a profession or business the board regulates, including any
16 rule, interpretation, or enforcement action that:

17 (A) regulates the scope of practice of persons in
18 a profession or business the board regulates;

19 (B) restricts advertising by persons in a
20 profession or business the board regulates;

21 (C) affects the price of goods or services
22 provided by persons in a profession or business the board
23 regulates; or

24 (D) restricts participation in a profession or
25 business the board regulates;

26 (5) [~~(2)~~] the results of the most recent formal audit
27 of the board;

1 (6) [~~3~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosure of conflicts
4 of interest; and

5 (B) other laws applicable to members of the board
6 in performing their duties; and

7 (7) [~~4~~] any applicable ethics policies adopted by
8 the board or the Texas Ethics Commission.

9 (d) The executive director of the executive council shall
10 create a training manual that includes the information required by
11 Subsection (b). The executive director shall distribute a copy of
12 the training manual annually to each board member. Each member of
13 the board shall sign and submit to the executive director a
14 statement acknowledging that the member received and has reviewed
15 the training manual.

16 SECTION 2.087. Section 505.201, Occupations Code, is
17 amended to read as follows:

18 Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY
19 OF EXECUTIVE COUNCIL. (a) The executive council [~~board~~] may:

20 (1) adopt and enforce rules necessary to perform the
21 executive council's [~~board's~~] duties under this chapter;

22 (2) establish standards of conduct and ethics for
23 license holders; and

24 (3) ensure strict compliance with and enforcement of
25 this chapter.

26 (b) [~~In adopting rules under this section, the board shall~~
27 ~~consider the rules and procedures of the department. The board~~

1 ~~shall adopt procedural rules, which may not be inconsistent with~~
2 ~~similar rules and procedures of the department.~~

3 ~~[(e)]~~ The executive council ~~[board]~~ by rule may define a
4 term not defined under Section 505.002 if a definition is necessary
5 to administer or enforce this chapter.

6 (c) ~~[(e)]~~ For each type of license issued under this
7 chapter, the executive council ~~[board]~~ shall establish:

- 8 (1) the minimum eligibility requirements;
- 9 (2) educational requirements;
- 10 (3) professional experience criteria;
- 11 (4) supervision requirements; and
- 12 (5) independent practice criteria.

13 (d) ~~[(f)]~~ The executive council ~~[board]~~ shall establish
14 procedures for recognition of independent practice.

15 SECTION 2.088. Subchapter D, Chapter 505, Occupations Code,
16 is amended by adding Section 505.2015 to read as follows:

17 Sec. 505.2015. BOARD DUTIES. The board shall propose to the
18 executive council:

19 (1) rules regarding:

20 (A) the qualifications necessary to obtain a
21 license or order of recognition of specialty, including rules
22 limiting an applicant's eligibility for a license or order based on
23 the applicant's criminal history;

24 (B) the scope of practice of and standards of
25 care and ethical practice for social work; and

26 (C) continuing education requirements for
27 license holders or holders of orders of recognition of specialty;

1 and

2 (2) a schedule of sanctions for violations of this
3 chapter or rules adopted under this chapter.

4 SECTION 2.089. Section 505.206, Occupations Code, is
5 amended to read as follows:

6 Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. The
7 executive council [~~board~~] shall publish a roster of persons
8 recognized under Section 505.307 as qualified for the independent
9 practice of social work.

10 SECTION 2.090. Section 505.301, Occupations Code, is
11 amended to read as follows:

12 Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The
13 executive council [~~board~~] may establish within the scope of social
14 work practice and this chapter specialty areas of social work for
15 license holders under this chapter who are licensed in good
16 standing if establishment of the specialty areas:

- 17 (1) is necessary to promote the public interest; and
18 (2) assists the public in identifying qualified
19 persons in a social work practice specialty.

20 (b) The executive council [~~board~~] may not authorize a
21 specialty area within the practice of social work unless the
22 executive council [~~board~~] sets the minimum qualifications for
23 social work practice with appropriate supervision and examination,
24 as determined by the executive council [~~board~~].

25 (c) The executive council [~~board~~] may not establish a
26 specialty area of social work or a specialty area identification
27 that conflicts with a state licensing law.

1 SECTION 2.091. Section 505.302(a), Occupations Code, is
2 amended to read as follows:

3 (a) In establishing a specialty area of social work, the
4 executive council [~~board~~] shall:

5 (1) define the scope of the specialty;

6 (2) establish qualifications for specialty area
7 practitioners that describe, in accordance with Subdivision (1),
8 the scope of the specialty area;

9 (3) adopt rules of conduct to ensure strict compliance
10 with and enforcement of this chapter; and

11 (4) adopt rules for the suspension or revocation of an
12 order of recognition of specialty.

13 SECTION 2.092. Sections 505.303(a) and (c), Occupations
14 Code, are amended to read as follows:

15 (a) The executive council [~~board~~] shall establish a
16 specialty area for the practice of clinical social work that is
17 available only to a licensed master social worker who satisfies the
18 minimum number of years of active social work practice with
19 appropriate supervision and clinical examination, as determined by
20 the executive council [~~board~~].

21 (c) For purposes of Subchapter C, Chapter 1451, Insurance
22 Code:

23 (1) a person recognized as qualified for the
24 independent practice of clinical social work may use the title
25 "Licensed Clinical Social Worker" or another title approved by the
26 executive council [~~board~~]; and

27 (2) a [~~board-approved~~] title approved by the executive

1 council under this subsection has the same meaning and effect as the
2 title "Licensed Clinical Social Worker."

3 SECTION 2.093. Section 505.304, Occupations Code, is
4 amended to read as follows:

5 Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The
6 executive council [~~board~~] shall prescribe the name, design, and
7 content of an order of recognition of specialty.

8 (b) An order of recognition of specialty must:

9 (1) state the full name of the person recognized in the
10 order; and

11 (2) state the official specialty serial number [+

12 [~~(3) include the presiding officer's signature, and~~

13 [~~(4) include the board's official seal~~].

14 SECTION 2.094. Section 505.305, Occupations Code, is
15 amended to read as follows:

16 Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER.

17 (a) The executive council [~~board~~] shall recognize a social worker
18 as qualified for the practice of a specialty area of social work if
19 the social worker satisfies the recognition requirements
20 established by the executive council [~~board~~] and the executive
21 council [~~board~~] determines that the person is worthy of the public
22 trust in performing services within the scope of the specialty
23 area.

24 (b) The executive council [~~board~~] shall issue an order of
25 recognition of specialty to a social worker who is recognized as
26 qualified for the practice of a specialty area of social work. The
27 order of recognition of specialty evidences the state's recognition

1 of the social worker as a specialty social work practitioner under
2 the identification or title designated by the executive council
3 [~~board~~].

4 SECTION 2.095. Section 505.306, Occupations Code, is
5 amended to read as follows:

6 Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA
7 IDENTIFICATION OR TITLE. If the executive council [~~board~~]
8 establishes a specialty area of social work, a social worker may not
9 use the specialty area identification or title designated by the
10 executive council [~~board~~] unless the person is recognized as
11 qualified for the practice of the specialty area under this
12 chapter.

13 SECTION 2.096. Section 505.307, Occupations Code, is
14 amended to read as follows:

15 Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM
16 QUALIFICATIONS. (a) The executive council [~~board~~] shall establish
17 procedures for recognizing a social worker qualified for the
18 independent practice of social work.

19 (b) A social worker may not be recognized as qualified for
20 the independent practice of social work unless the person satisfies
21 the requirements of social work education, experience, and
22 supervision as determined by the executive council [~~board~~].

23 SECTION 2.097. Section 505.352, Occupations Code, is
24 amended to read as follows:

25 Sec. 505.352. LICENSE APPLICATION. A person may apply for a
26 license under this chapter by submitting an application to the
27 executive council [~~board~~]. The application must:

1 (1) be on a form prescribed by the executive council
2 [~~board~~]; and

3 (2) contain statements made under oath regarding the
4 applicant's education and experience and any other information
5 required by the executive council [~~board~~] that qualifies the
6 applicant for a license.

7 SECTION 2.098. Section 505.353, Occupations Code, is
8 amended to read as follows:

9 Sec. 505.353. ELIGIBILITY. (a) To be eligible for a
10 license under this chapter, an applicant must:

11 (1) be at least 18 years of age;

12 (2) be worthy of the public trust and confidence;

13 (3) satisfy the education and experience requirements
14 under this section; and

15 (4) pass the licensing examination conducted by the
16 executive council [~~board~~] under Section 505.354 and the
17 jurisprudence examination conducted by the executive council
18 [~~board~~] under Section 505.3545.

19 (b) An applicant may take the licensing examination
20 conducted by the executive council [~~board~~] under Section 505.354
21 for:

22 (1) a master social worker license if the applicant
23 possesses a doctoral or master's degree in social work from a
24 graduate program that is accredited by or is in candidacy for
25 accreditation by the Council on Social Work Education;

26 (2) a baccalaureate social worker license if the
27 applicant possesses a baccalaureate degree in social work from an

1 educational program that is accredited by or is in candidacy for
2 accreditation by the Council on Social Work Education; or

3 (3) a clinical social worker license if the applicant
4 possesses a doctoral or master's degree in social work from an
5 accredited graduate program approved by the executive council
6 [~~board~~] and meets the qualifications for clinical social work
7 practice as determined by the executive council [~~board~~] under this
8 chapter.

9 (c) The executive council [~~board~~] may require an applicant
10 to submit documentary evidence of the quality, scope, and nature of
11 the applicant's experience and competence to:

12 (1) determine the credibility and acceptability of the
13 applicant's professional or technical experience or competence;
14 and

15 (2) ensure the public safety, health, and welfare.

16 SECTION 2.099. Sections 505.354(a), (b), and (e),
17 Occupations Code, are amended to read as follows:

18 (a) The board[~~, at least once each calendar year,~~] shall
19 prepare [~~and administer~~] an examination to assess an applicant's
20 qualifications for a license under this chapter. The executive
21 council shall administer the examination at least once each
22 calendar year.

23 (b) Each license examination shall be conducted in a manner
24 that is determined by the executive council [~~board~~] and is fair and
25 impartial to each applicant and school or system of social work.

26 (e) The executive council [~~board~~] shall have the written
27 portion of the examination, if any, validated by an independent

1 testing entity.

2 SECTION 2.100. Section 505.3545, Occupations Code, is
3 amended to read as follows:

4 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The board
5 shall develop [~~and administer at least twice each calendar year~~] a
6 jurisprudence examination to determine an applicant's knowledge of
7 this chapter, [~~board~~] rules adopted under this chapter, and any
8 other applicable laws of this state affecting the applicant's
9 social work practice. The executive council shall administer the
10 examination at least twice each calendar year.

11 (b) The executive council [~~board~~] shall adopt rules to
12 implement this section, including rules related to the development
13 and administration of the examination, examination fees,
14 guidelines for reexamination, grading the examination, and
15 providing notice of examination results.

16 SECTION 2.101. Section 505.357(a), Occupations Code, is
17 amended to read as follows:

18 (a) The executive council [~~board~~] shall issue a temporary
19 license to an applicant who:

20 (1) has not taken the licensing examination under
21 Section 505.354 or the jurisprudence examination under Section
22 505.3545; and

23 (2) satisfies the requirements for obtaining a license
24 under this chapter other than passing the licensing and
25 jurisprudence examinations.

26 SECTION 2.102. Section 505.3575, Occupations Code, is
27 amended to read as follows:

1 Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE
2 APPLICANTS. (a) Notwithstanding any other licensing requirement
3 of this subchapter:

4 (1) the executive council [~~board~~] may not require an
5 applicant who is licensed in good standing in another state to pass
6 a licensing examination conducted by the executive council [~~board~~]
7 under Section 505.354 if an applicant with substantially equivalent
8 experience who resides in this state would not be required to take
9 the licensing examination; and

10 (2) the executive council [~~board~~] may issue a license
11 to an applicant who is currently licensed in another state to
12 independently practice social work if:

13 (A) after an assessment, the executive council
14 [~~board~~] determines that the applicant:

15 (i) demonstrates sufficient experience and
16 competence;

17 (ii) has passed the jurisprudence
18 examination conducted by the executive council [~~board~~] under
19 Section 505.3545; and

20 (iii) at the time of the application, is in
21 good standing with the regulatory agency of the state in which the
22 applicant is licensed; and

23 (B) the applicant presents to the executive
24 council [~~board~~] credentials that the applicant obtained from a
25 national accreditation organization and the executive council
26 [~~board~~] determines that the requirements to obtain the credentials
27 are sufficient to minimize any risk to public safety.

1 (b) When assessing the experience and competence of an
2 applicant for the purposes of this section, the executive council
3 [~~board~~] may take into consideration any supervision received by the
4 applicant in another state or jurisdiction if the executive council
5 [~~board~~] determines that the supervision would be taken into
6 consideration for the purpose of licensing or certification in the
7 state or jurisdiction in which the applicant received the
8 supervision.

9 SECTION 2.103. Section 505.358, Occupations Code, is
10 amended to read as follows:

11 Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply
12 for a provisional license as a social worker by paying the
13 appropriate fee and filing an application with the executive
14 council [~~board~~]. The executive council [~~board~~] may issue a
15 provisional license to a person who meets the requirements of this
16 section.

17 (b) An applicant for a provisional license must:

18 (1) be licensed or certified in good standing as a
19 social worker in another state or jurisdiction that has licensing
20 or certification requirements determined by the executive council
21 [~~board~~] to be substantially equivalent to the requirements of this
22 chapter;

23 (2) have passed a national or other examination
24 recognized by the executive council [~~board~~] relating to the
25 practice of social work; and

26 (3) be sponsored by a person licensed under this
27 chapter with whom the provisional license holder may practice

1 social work.

2 (c) An applicant is not required to comply with Subsection
3 (b)(3) if the executive council [~~board~~] determines that compliance
4 constitutes a hardship to the applicant.

5 (d) A provisional license is valid until the date the
6 executive council [~~board~~] approves or denies the provisional
7 license holder's application for a license under Section 505.359.

8 SECTION 2.104. Section 505.359, Occupations Code, is
9 amended to read as follows:

10 Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
11 HOLDER. (a) The executive council [~~board~~] shall issue an
12 appropriate license to a provisional license holder:

13 (1) who passes the licensing examination under Section
14 505.354 and the jurisprudence examination under Section 505.3545;

15 (2) for whom the executive council [~~board~~] verifies
16 that the person satisfies the academic and experience requirements
17 under Section 505.353; and

18 (3) who satisfies any other license requirements under
19 this chapter.

20 (b) The executive council [~~board~~] shall complete the
21 processing of a provisional license holder's application for a
22 license not later than the 180th day after the date the provisional
23 license is issued or the date licenses are issued after successful
24 completion of the next licensing and jurisprudence examinations,
25 whichever date is later.

26 (c) The executive council [~~board~~] may waive a license
27 requirement for an applicant who is licensed or certified in

1 another state if this state has entered into a reciprocity
2 agreement with that state.

3 SECTION 2.105. Section 505.401(a-1), Occupations Code, is
4 amended to read as follows:

5 (a-1) The executive council [~~board~~] by rule shall adopt a
6 system under which licenses and orders of recognition of specialty
7 expire on various dates during the year.

8 SECTION 2.106. Section 505.405, Occupations Code, is
9 amended to read as follows:

10 Sec. 505.405. GROUNDS FOR REFUSING RENEWAL. The executive
11 council [~~board~~] may refuse to renew the license of a person who
12 fails to pay an administrative penalty imposed under Subchapter H,
13 Chapter 507, [~~*~~] unless enforcement of the penalty is stayed or a
14 court has ordered that the administrative penalty is not owed.

15 SECTION 2.107. The heading to Subchapter I, Chapter 505,
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER I. [~~DENIAL OF LICENSE OR ORDER AND~~] DISCIPLINARY ACTION
18 [PROCEDURES]

19 SECTION 2.108. Section 505.451, Occupations Code, is
20 amended to read as follows:

21 Sec. 505.451. GROUNDS FOR [~~DENIAL OF LICENSE OR ORDER OF~~
22 ~~RECOGNITION OF SPECIALTY,~~] DISCIPLINARY ACTION. The executive
23 council [~~board~~] shall take disciplinary action under Subchapter G,
24 Chapter 507, against a person [~~deny an application for a license or~~
25 ~~order of recognition of specialty and shall revoke or suspend,~~
26 ~~including a suspension on an emergency basis, a license or order,~~
27 ~~place a holder of a license or order that has been suspended on~~

1 ~~probation, refuse to renew a person's license, or reprimand a~~
2 ~~holder of a license or order] for:~~

3 (1) violating this chapter or a rule adopted [~~by the~~
4 ~~board]~~ under this chapter;

5 (2) circumventing or attempting to circumvent the
6 requirements of this chapter or a rule adopted [~~by the board]~~ under
7 this chapter;

8 (3) directly or indirectly participating in a scheme
9 to evade the requirements of this chapter or a rule adopted [~~by the~~
10 ~~board]~~ under this chapter;

11 (4) engaging in unethical conduct;

12 (5) engaging in conduct that discredits or tends to
13 discredit the social work profession;

14 (6) performing an act, allowing an omission, or making
15 an assertion or representation that is fraudulent, deceitful, or
16 misleading or that tends to create a misleading impression;

17 (7) knowingly associating with or permitting the use
18 of a license holder's professional services or identification in
19 connection with an enterprise that the person knows or should have
20 known in the exercise of reasonable diligence violates this chapter
21 or a rule adopted [~~by the board]~~ under this chapter;

22 (8) knowingly associating with or permitting the use
23 of a license holder's name, professional services or
24 identification, or endorsement in connection with an enterprise
25 that the person knows or should have known in the exercise of
26 reasonable diligence is a trade, business, or professional practice
27 of a fraudulent, deceitful, or misleading nature;

1 (9) directly or indirectly revealing or causing to be
2 revealed a confidential communication transmitted to the license
3 holder by a client or other recipient of the license holder's
4 services unless revealing the communication is required by law;

5 (10) having been denied an application for a license
6 or certificate to practice social work in another jurisdiction for
7 a reason that the executive council [~~board~~] determines would be a
8 violation of this chapter or a rule adopted [~~by the board~~] under
9 this chapter;

10 (11) holding a license or certificate in another
11 jurisdiction that is suspended or revoked for a reason that the
12 executive council [~~board~~] determines would be a violation of this
13 chapter or a rule adopted [~~by the board~~] under this chapter;

14 (12) having been convicted of a felony in this state,
15 another state, or the United States;

16 (13) refusing to perform an act or service within the
17 scope of the license holder's license solely because of the
18 recipient's age, sex, race, religion, national origin, color, or
19 political affiliation; or

20 (14) committing an act for which liability exists
21 under Chapter 81, Civil Practice and Remedies Code.

22 SECTION 2.109. Section 505.454(a), Occupations Code, is
23 amended to read as follows:

24 (a) A person who holds an expired license or order of
25 recognition of specialty under this chapter is subject to a
26 sanction under this chapter if the executive council [~~board~~]
27 determines that the person violated this chapter or a rule adopted

1 ~~[by the board]~~ under this chapter during the period in which the
2 license or order was valid.

3 SECTION 2.110. Section 505.458, Occupations Code, is
4 amended to read as follows:

5 Sec. 505.458. REFUND. (a) Subject to Subsection (b), the
6 executive council ~~[board]~~ may order a license holder to pay a refund
7 to a consumer as provided in an agreement resulting from an informal
8 settlement conference instead of or in addition to imposing an
9 administrative penalty under this chapter.

10 (b) The amount of a refund ordered as provided in an
11 agreement resulting from an informal settlement conference may not
12 exceed the amount the consumer paid to the license holder for a
13 service regulated by this chapter. The executive council ~~[board]~~
14 may not require payment of other damages or estimate harm in a
15 refund order.

16 SECTION 2.111. Section 505.505, Occupations Code, is
17 amended to read as follows:

18 Sec. 505.505. APPEAL BOND NOT REQUIRED. The executive
19 council ~~[board or department]~~ is not required to post an appeal bond
20 in any action arising under this chapter.

21 SECTION 2.112. Section 505.506, Occupations Code, is
22 amended to read as follows:

23 Sec. 505.506. REPRESENTATION BY ATTORNEY GENERAL. The
24 attorney general shall represent the executive council ~~[board or~~
25 ~~department]~~ in an action brought to enforce this chapter.

26 SECTION 2.113. The following provisions of the Occupations
27 Code are repealed:

- 1 (1) Section 501.002(3);
- 2 (2) Section 501.005;
- 3 (3) Subchapter C, Chapter 501;
- 4 (4) Sections 501.151(a) and (b);
- 5 (5) Section 501.152;
- 6 (6) Section 501.154;
- 7 (7) Section 501.156;
- 8 (8) Section 501.157;
- 9 (9) Section 501.160;
- 10 (10) Section 501.161;
- 11 (11) Section 501.162;
- 12 (12) Subchapter E, Chapter 501;
- 13 (13) Sections 501.252(b), (c), and (d);
- 14 (14) Section 501.254;
- 15 (15) Sections 501.256(e), (f), and (g);
- 16 (16) Section 501.2561;
- 17 (17) Section 501.257;
- 18 (18) Section 501.258;
- 19 (19) Section 501.261(b);
- 20 (20) Section 501.302;
- 21 (21) Section 501.303;
- 22 (22) Section 501.304;
- 23 (23) Section 501.402;
- 24 (24) Section 501.403;
- 25 (25) Section 501.404;
- 26 (26) Section 501.405;
- 27 (27) Section 501.406;

- 1 (28) Section 501.409;
- 2 (29) Section 501.410;
- 3 (30) Subchapter J, Chapter 501;
- 4 (31) Section 501.501;
- 5 (32) Section 501.502;
- 6 (33) Section 501.504;
- 7 (34) Section 502.002(3);
- 8 (35) Section 502.003;
- 9 (36) Subchapter C, Chapter 502;
- 10 (37) Section 502.152;
- 11 (38) Section 502.153;
- 12 (39) Section 502.154;
- 13 (40) Section 502.156;
- 14 (41) Section 502.1565;
- 15 (42) Section 502.157;
- 16 (43) Section 502.158;
- 17 (44) Section 502.161;
- 18 (45) Section 502.162;
- 19 (46) Section 502.163;
- 20 (47) Subchapter E, Chapter 502;
- 21 (48) Section 502.255;
- 22 (49) Section 502.256;
- 23 (50) Sections 502.301(b), (c), (d), and (e);
- 24 (51) Section 502.302;
- 25 (52) Section 502.303;
- 26 (53) Section 502.352;
- 27 (54) Section 502.353;

- 1 (55) Section 502.354;
- 2 (56) Section 502.355;
- 3 (57) Section 502.356;
- 4 (58) Subchapter I, Chapter 502;
- 5 (59) Section 502.451;
- 6 (60) Section 502.452;
- 7 (61) Section 502.453;
- 8 (62) Section 502.455;
- 9 (63) Section 503.005;
- 10 (64) Subchapter D, Chapter 503;
- 11 (65) Section 503.202;
- 12 (66) Section 503.203;
- 13 (67) Section 503.204;
- 14 (68) Section 503.2045;
- 15 (69) Section 503.205;
- 16 (70) Section 503.207;
- 17 (71) Section 503.209;
- 18 (72) Section 503.210;
- 19 (73) Section 503.211;
- 20 (74) Subchapter F, Chapter 503;
- 21 (75) Section 503.306;
- 22 (76) Section 503.307;
- 23 (77) Section 503.354;
- 24 (78) Section 503.355;
- 25 (79) Section 503.356;
- 26 (80) Sections 503.401(b), (c), and (d);
- 27 (81) Section 503.402;

- 1 (82) Section 503.403;
- 2 (83) Section 503.404;
- 3 (84) Section 503.405;
- 4 (85) Section 503.406;
- 5 (86) Section 503.451;
- 6 (87) Section 503.454;
- 7 (88) Subchapter K, Chapter 503;
- 8 (89) Section 505.005;
- 9 (90) Section 505.110;
- 10 (91) Subchapter C, Chapter 505;
- 11 (92) Section 505.202;
- 12 (93) Section 505.203;
- 13 (94) Section 505.204;
- 14 (95) Section 505.205;
- 15 (96) Section 505.209;
- 16 (97) Section 505.210;
- 17 (98) Section 505.211;
- 18 (99) Subchapter E, Chapter 505;
- 19 (100) Section 505.355;
- 20 (101) Section 505.356;
- 21 (102) Section 505.402;
- 22 (103) Section 505.403;
- 23 (104) Section 505.404;
- 24 (105) Section 505.452;
- 25 (106) Section 505.453;
- 26 (107) Section 505.454(b);
- 27 (108) Section 505.455;

- 1 (109) Section 505.456;
2 (110) Section 505.457;
3 (111) Section 505.501;
4 (112) Section 505.503;
5 (113) Section 505.504;
6 (114) Section 505.508; and
7 (115) Subchapter K, Chapter 505.

8 ARTICLE 3. CONFORMING AMENDMENTS

9 SECTION 3.001. Article 66.104(a), Code of Criminal
10 Procedure, is amended to read as follows:

11 (a) The Texas Medical Board, the Texas Department of
12 Licensing and Regulation, only with respect to a person licensed
13 under Chapter 202, Occupations Code [~~State Board of Podiatric~~
14 ~~Medical Examiners~~], the State Board of Dental Examiners, the Texas
15 State Board of Pharmacy, the Texas Behavioral Health Executive
16 Council, only with respect to a person licensed under Chapter 501,
17 Occupations Code [~~State Board of Examiners of Psychologists~~], and
18 the State Board of Veterinary Medical Examiners shall provide to
19 the Department of Public Safety through electronic means, magnetic
20 tape, or disk, as specified by the department, a list of each person
21 licensed by the respective agency, including the person's name and
22 date of birth and any other personal descriptive information
23 required by the department. Each agency shall update the
24 information and submit the updated information quarterly to the
25 department.

26 SECTION 3.002. Section 411.122(d), Government Code, is
27 amended to read as follows:

1 (d) The following state agencies are subject to this
2 section:

3 (1) Texas Appraiser Licensing and Certification
4 Board;

5 (2) Texas Board of Architectural Examiners;

6 (3) Texas Board of Chiropractic Examiners;

7 (4) State Board of Dental Examiners;

8 (5) Texas Board of Professional Engineers;

9 (6) Texas Funeral Service Commission;

10 (7) Texas Board of Professional Geoscientists;

11 (8) Health and Human Services Commission [~~Department~~
12 ~~of State Health Services~~], except as provided by Section 411.110,
13 and agencies attached to the commission [~~department, including:~~

14 [~~(A) Texas State Board of Examiners of Marriage~~
15 ~~and Family Therapists,~~

16 [~~(B) Texas State Board of Examiners of~~
17 ~~Professional Counselors, and~~

18 [~~(C) Texas State Board of Social Worker~~
19 ~~Examiners]~~;

20 (9) Texas Board of Professional Land Surveying;

21 (10) Texas Department of Licensing and Regulation,
22 except as provided by Section 411.093;

23 (11) Texas Commission on Environmental Quality;

24 (12) Texas Board of Occupational Therapy Examiners;

25 (13) Texas Optometry Board;

26 (14) Texas State Board of Pharmacy;

27 (15) Texas Board of Physical Therapy Examiners;

- 1 (16) Texas State Board of Plumbing Examiners;
- 2 (17) [~~Texas State Board of Podiatric Medical~~
- 3 ~~Examiners,~~
- 4 [~~18~~] Texas Behavioral Health Executive Council
- 5 [~~State Board of Examiners of Psychologists~~];
- 6 (18) [~~19~~] Texas Real Estate Commission;
- 7 (19) [~~20~~] Texas Department of Transportation;
- 8 (20) [~~21~~] State Board of Veterinary Medical
- 9 Examiners;
- 10 (21) [~~22~~] Texas Department of Housing and Community
- 11 Affairs;
- 12 (22) [~~23~~] secretary of state;
- 13 (23) [~~24~~] state fire marshal;
- 14 (24) [~~25~~] Texas Education Agency;
- 15 (25) [~~26~~] Department of Agriculture; and
- 16 (26) [~~27~~] Texas Department of Motor Vehicles.

17 SECTION 3.003. Section 2054.2606(a), Government Code, is

18 amended to read as follows:

19 (a) The following licensing entities shall establish a

20 profile system consisting of the specific license holder

21 information prescribed by Subsection (c):

22 (1) Texas Board of Chiropractic Examiners, with

23 respect to chiropractors;

24 (2) Texas Department of Licensing and Regulation

25 [~~State Board of Podiatric Medical Examiners~~], with respect to

26 podiatrists;

27 (3) State Board of Dental Examiners, with respect to

1 dentists;

2 (4) Texas Optometry Board, with respect to
3 optometrists and therapeutic optometrists;

4 (5) Texas Board of Physical Therapy Examiners, with
5 respect to physical therapists and physical therapy facilities;

6 (6) Texas Board of Occupational Therapy Examiners,
7 with respect to occupational therapists and occupational therapy
8 facilities;

9 (7) Texas Behavioral Health Executive Council [~~State~~
10 ~~Board of Examiners of Psychologists~~], with respect to
11 psychologists; and

12 (8) Texas State Board of Pharmacy, with respect to
13 pharmacists and pharmacies.

14 SECTION 3.004. Section 2054.352(a), Government Code, is
15 amended to read as follows:

16 (a) The following licensing entities shall participate in
17 the system established under Section 2054.353:

18 (1) Texas Board of Chiropractic Examiners;

19 (2) Judicial Branch Certification Commission;

20 (3) State Board of Dental Examiners;

21 (4) Texas Funeral Service Commission;

22 (5) Texas Board of Professional Land Surveying;

23 (6) Texas Medical Board;

24 (7) Texas Board of Nursing;

25 (8) Texas Optometry Board;

26 (9) Department of Agriculture, for licenses issued
27 under Chapter 1951, Occupations Code;

- 1 (10) Texas State Board of Pharmacy;
- 2 (11) Executive Council of Physical Therapy and
3 Occupational Therapy Examiners;
- 4 (12) Texas State Board of Plumbing Examiners;
- 5 (13) [~~Texas State Board of Podiatric Medical~~
6 ~~Examiners~~;
- 7 ~~[(14)]~~ Texas Behavioral Health Executive Council
8 [~~State Board of Examiners of Psychologists~~];
- 9 (14) ~~[(15)]~~ State Board of Veterinary Medical
10 Examiners;
- 11 (15) ~~[(16)]~~ Texas Real Estate Commission;
- 12 (16) ~~[(17)]~~ Texas Appraiser Licensing and
13 Certification Board;
- 14 (17) ~~[(18)]~~ Texas Department of Licensing and
15 Regulation;
- 16 (18) ~~[(19)]~~ Texas State Board of Public Accountancy;
- 17 (19) ~~[(20)]~~ State Board for Educator Certification;
- 18 (20) ~~[(21)]~~ Texas Board of Professional Engineers;
- 19 (21) Health and Human Services Commission
20 [~~(22) Department of State Health Services~~];
- 21 (22) ~~[(23)]~~ Texas Board of Architectural Examiners;
- 22 (23) ~~[(24)]~~ Texas Racing Commission;
- 23 (24) ~~[(25)]~~ Texas Commission on Law Enforcement; and
- 24 (25) ~~[(26)]~~ Texas Private Security Board.

25 SECTION 3.005. Section 36.132(a)(2), Human Resources Code,
26 is amended to read as follows:

27 (2) "Licensing authority" means:

- 1 (A) the Texas Medical Board;
- 2 (B) the State Board of Dental Examiners;
- 3 (C) the Texas Behavioral Health Executive
- 4 Council [~~State Board of Examiners of Psychologists~~];
- 5 (D) [~~the Texas State Board of Social Worker~~
- 6 ~~Examiners~~;
- 7 [~~(E)~~] the Texas Board of Nursing;
- 8 (E) [~~(F)~~] the Texas Board of Physical Therapy
- 9 Examiners;
- 10 (F) [~~(G)~~] the Texas Board of Occupational
- 11 Therapy Examiners; or
- 12 (G) [~~(H)~~] another state agency authorized to
- 13 regulate a provider who receives or is eligible to receive payment
- 14 for a health care service under the Medicaid program.

15 SECTION 3.006. Sections 1451.001(9), (10), (11), (18), and

16 (19), Insurance Code, are amended to read as follows:

17 (9) "Licensed clinical social worker" means an

18 individual licensed [~~by the Texas State Board of Social Worker~~

19 ~~Examiners~~] as a [~~licensed~~] clinical social worker under Chapter

20 505, Occupations Code.

21 (10) "Licensed professional counselor" means an

22 individual licensed under Chapter 503, Occupations Code [~~by the~~

23 ~~Texas State Board of Examiners of Professional Counselors~~].

24 (11) "Marriage and family therapist" means an

25 individual licensed under Chapter 502, Occupations Code [~~by the~~

26 ~~Texas State Board of Examiners of Marriage and Family Therapists~~].

27 (18) "Psychological associate" means an individual

1 licensed as a psychological associate by the Texas Behavioral
2 Health Executive Council [~~State Board of Examiners of Psychologists~~
3 ~~who practices solely under the supervision of a licensed~~
4 ~~psychologist~~].

5 (19) "Psychologist" means an individual licensed as a
6 psychologist by the Texas Behavioral Health Executive Council
7 [~~State Board of Examiners of Psychologists~~].

8 SECTION 3.007. Section 101.002, Occupations Code, is
9 amended to read as follows:

10 Sec. 101.002. COMPOSITION OF COUNCIL. The council consists
11 of 13 [~~14~~] members, with one member appointed by each of the
12 following:

- 13 (1) the Texas Board of Chiropractic Examiners;
- 14 (2) the State Board of Dental Examiners;
- 15 (3) the Texas Optometry Board;
- 16 (4) the Texas State Board of Pharmacy;
- 17 (5) [~~the Texas State Board of Podiatric Medical~~
18 ~~Examiners,~~
19 [~~6~~] the State Board of Veterinary Medical Examiners;
- 20 (6) [~~7~~] the Texas Medical Board;
- 21 (7) [~~8~~] the Texas Board of Nursing;
- 22 (8) [~~9~~] the Texas Behavioral Health Executive
23 Council [~~State Board of Examiners of Psychologists~~];
- 24 (9) [~~10~~] the Texas Funeral Service Commission;
- 25 (10) [~~11~~] the entity that regulates the practice of
26 physical therapy;
- 27 (11) [~~12~~] the entity that regulates the practice of

1 occupational therapy;

2 (12) [~~(13)~~] the health licensing division of the
3 Health and Human Services Commission [~~Department of State Health~~
4 ~~Services~~]; and

5 (13) [~~(14)~~] the governor's office.

6 SECTION 3.008. Section 110.001(7), Occupations Code, is
7 amended to read as follows:

8 (7) "Sex offender treatment provider" means a person,
9 licensed by the council and recognized based on training and
10 experience to provide assessment and treatment to adult sex
11 offenders or juveniles with sexual behavioral problems who have
12 been convicted, adjudicated, awarded deferred adjudication, or
13 referred by a state agency or a court, and licensed in this state to
14 practice as a physician, psychiatrist, psychologist, psychological
15 associate, provisionally licensed psychologist, licensed
16 professional counselor, licensed professional counselor intern,
17 licensed marriage and family therapist, licensed marriage and
18 family associate, licensed clinical social worker, licensed master
19 social worker under a clinical supervision plan approved by the
20 Texas Behavioral Health Executive Council [~~State Board of Social~~
21 ~~Worker Examiners~~], or advanced practice nurse recognized as a
22 psychiatric clinical nurse specialist or psychiatric mental health
23 nurse practitioner, who provides mental health or medical services
24 for rehabilitation of sex offenders.

25 ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

26 SECTION 4.001. In this article:

27 (1) "Executive council" means the Texas Behavioral

1 Health Executive Council.

2 (2) "Transferring entity" means:

3 (A) the Texas State Board of Examiners of
4 Psychologists;

5 (B) the Texas State Board of Examiners of
6 Marriage and Family Therapists;

7 (C) the Texas State Board of Examiners of
8 Professional Counselors; and

9 (D) the Texas State Board of Social Worker
10 Examiners.

11 SECTION 4.002. (a) Except as provided by Subsection (b) of
12 this section, Sections 501.059, 502.059, 503.110, and 505.109,
13 Occupations Code, as amended by this Act, apply to a member of the
14 applicable board appointed before, on, or after the effective date
15 of this Act.

16 (b) A member of a board who, before the effective date of
17 this Act, completed the training program required by Section
18 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the
19 applicable law existed before the effective date of this Act, is
20 required to complete additional training only on the subjects added
21 by this Act to the training program required by Section 501.059,
22 502.059, 503.110, or 505.109, Occupations Code, as applicable. A
23 board member described by this subsection may not vote, deliberate,
24 or be counted as a member in attendance at a meeting of the board
25 held on or after December 1, 2019, until the member completes the
26 additional training.

27 SECTION 4.003. (a) Section 501.2525, Occupations Code, as

1 redesignated and amended by this Act, applies only to an
2 application for a license under Chapter 501, Occupations Code, that
3 is submitted on or after the effective date of this Act. An
4 application submitted before the effective date of this Act is
5 governed by the law in effect on the date the application was
6 submitted, and the former law is continued in effect for that
7 purpose.

8 (b) A provisional license issued under Section 501.253,
9 Occupations Code, that is in effect on the effective date of this
10 Act continues to be valid until the license expires.

11 (c) Section 502.252, Occupations Code, as amended by this
12 Act, applies only to an application for a license under Chapter 502,
13 Occupations Code, submitted on or after the date on which rules
14 adopted by the Texas Behavioral Health Executive Council under that
15 section take effect. An application submitted before that date is
16 governed by the law in effect immediately before the effective date
17 of this Act, and the former law is continued in effect for that
18 purpose.

19 SECTION 4.004. Not later than August 31, 2020, an initial
20 member of the executive council shall complete the training
21 required by Section 507.059, Occupations Code, as added by this
22 Act. On or after September 1, 2020, a member of the executive
23 council may not vote, deliberate, or be counted as a member in
24 attendance at a meeting of the executive council until the member
25 has completed the training required by that section.

26 SECTION 4.005. (a) Not later than December 1, 2019, the
27 appropriate appointing authorities shall appoint the members of the

1 executive council as provided by Section 507.051, Occupations Code,
2 as added by this Act.

3 (b) Notwithstanding the terms established by Section
4 507.054, Occupations Code, as added by this Act, in making the
5 initial appointments to the executive council, the Texas State
6 Board of Examiners of Psychologists, the Texas State Board of
7 Examiners of Marriage and Family Therapists, the Texas State Board
8 of Examiners of Professional Counselors, and the Texas State Board
9 of Social Worker Examiners shall each appoint one member to a term
10 expiring February 1, 2021, and one member to a term expiring
11 February 1, 2022.

12 SECTION 4.006. (a) The Texas Behavioral Health Incubation
13 Task Force is established to assist in the establishment of and
14 transfer of regulatory programs to the executive council under this
15 Act by providing guidance to:

16 (1) the executive council regarding:

17 (A) hiring the executive director of the
18 executive council;

19 (B) developing functional alignments within the
20 organizational structure of the executive council;

21 (C) establishing any necessary accounts and
22 reporting requirements; and

23 (D) seeking input from interested parties
24 throughout the transfer; and

25 (2) the transferring entities and the executive
26 council regarding:

27 (A) the efficient transfer of necessary data; and

1 (B) the revision of existing rules to align with
2 the administrative structure of the executive council.

3 (b) The task force is composed of:

4 (1) the executive commissioner of the Health and Human
5 Services Commission, or the executive commissioner's designee;

6 (2) the executive director of the Texas Department of
7 Licensing and Regulation, or the executive director's designee;

8 (3) the executive director of the Texas State Board of
9 Examiners of Psychologists;

10 (4) a representative of the Texas State Board of
11 Examiners of Marriage and Family Therapists;

12 (5) a representative of the Texas State Board of
13 Examiners of Professional Counselors; and

14 (6) a representative of the Texas State Board of
15 Social Worker Examiners.

16 (c) The entities represented on the task force may adopt a
17 memorandum of understanding to accomplish the responsibilities and
18 duties of the task force and to ensure access by the entities of any
19 systems and information necessary to effectively transfer the
20 regulatory programs to the executive council under this Act.

21 SECTION 4.007. (a) Not later than April 1, 2020, the
22 executive council shall hire an executive director for the
23 executive council.

24 (b) Not later than July 31, 2020, the executive council
25 shall adopt procedural rules necessary to implement Chapter 507,
26 Occupations Code, as added by this Act.

27 SECTION 4.008. (a) As soon as practicable after the

1 appointment of the members of the executive council, the executive
2 council and the transferring entities shall adopt a transition plan
3 to provide for the orderly transfer of powers, duties, functions,
4 programs, and activities under this Act. The transition plan must
5 provide for the transfer of each regulatory program to be
6 completed on or before August 31, 2020.

7 (b) The transferring entities shall provide the executive
8 council with access to any systems or information necessary for the
9 executive council to accept a program transferred under this Act.

10 (c) On the date specified in the transition plan required
11 under Subsection (a) of this section for the transfer of a
12 particular program to the executive council, all full-time
13 equivalent employee positions at a transferring entity that
14 primarily concern the administration or enforcement of the program
15 being transferred become positions at the executive council. The
16 executive council shall post the positions for hiring and, when
17 filling the positions, shall give consideration to, but is not
18 required to hire, an applicant who, immediately before the date of
19 the transfer, was an employee at a transferring entity primarily
20 involved in administering or enforcing the transferred program.

21 SECTION 4.009. On the date specified in the transition plan
22 required under Section 4.008(a) of this article for the transfer of
23 a particular program to the executive council:

24 (1) a rule or fee relating to a transferred program
25 that is in effect on that date remains in effect until changed by
26 the executive council;

27 (2) a license, registration, certification, or other

1 authorization relating to a transferred program that is in effect
2 on that date is continued in effect as a license, registration,
3 certification, or other authorization of the executive council; and

4 (3) a complaint, investigation, contested case, or
5 other proceeding relating to a transferred program that is pending
6 before a transferring entity on that date is transferred without
7 change in status to the executive council.

8 SECTION 4.010. Section 507.154, Occupations Code, as added
9 by this Act, does not prohibit the appropriation of money to the
10 Behavioral Health Executive Council, as created by this Act, for
11 the state fiscal year ending August 31, 2020.

12 SECTION 4.011. To the extent of any conflict, this Act
13 prevails over another Act of the 86th Legislature, Regular Session,
14 2019, relating to nonsubstantive additions to and corrections in
15 enacted codes.

16 SECTION 4.012. This Act takes effect September 1, 2019.

ADOPTED

✓✓
MAY 14 2019

Henry Spaul
Secretary of the Senate

COMMITTEE AMENDMENT NO. 1

BY: Chad Perry

Amend H.B. No. 1501 (engrossed version) on page 2, line 10, by striking "2031" and substituting "2029".

ADOPTED

MAY 14 2019

FLOOR AMENDMENT NO. 2

Letty Spaul
Secretary of the Senate

BY: _____

John M. ...

1 Amend C.S.H.B. No. 1501 (senate committee report) as follows:

2 (1) On page 6, between lines 29 and 30, insert the following:

3 (c) The executive council may not include the home address
4 of a license holder in a registry the executive council publishes
5 on the executive council's Internet website unless the person
6 requests that the person's home address appear in the registry on
7 the website. A request under this subsection must be made in the
8 manner prescribed by the executive council.

9 (d) The home address of a license holder that is included in
10 a registry the executive council prepares under this section is
11 public information and is not excepted from required disclosure
12 under Chapter 552, Government Code.

13 (2) Add the following appropriately numbered SECTION to
14 Article 4 of the bill and renumber subsequent SECTIONS of that
15 article accordingly:

16 SECTION 4.____. To the extent of any conflict, this Act
17 prevails over another Act of the 86th Legislature, Regular Session,
18 2019, relating to the online publication of the home address of a
19 person licensed under Chapter 503 or 505, Occupations Code.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 15, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1501** by Nevárez (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; providing civil and administrative penalties; authorizing a fee.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1501, As Passed 2nd House: a negative impact of (\$887,258) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$887,258)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Appropriated Receipts</i> 666	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	(\$887,258)	\$0	(\$1,288,000)	\$1,288,000
2021	(\$1,897,162)	\$1,897,162	(\$1,303,988)	\$1,303,988
2022	(\$1,813,736)	\$1,813,736	(\$239,988)	\$239,988
2023	(\$1,858,881)	\$1,858,881	(\$239,988)	\$239,988
2024	(\$1,666,512)	\$1,666,512	(\$239,988)	\$239,988

Fiscal Year	Change in Number of State Employees from FY 2019
2020	0.5
2021	4.0
2022	3.0
2023	3.0
2024	0.0

Fiscal Analysis

The bill would add Chapter 507 to and amend various chapters of the Occupations Code to create the Texas Behavioral Health Executive Council (the council) and authorizes the council to regulate psychologists, marriage and family therapists, professional counselors, and social workers.

The listed licensee populations are currently regulated by the Texas State Board of Examiners of Psychologists (BEP) and the Texas Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners. With the exclusion of BEP, the other three boards are administratively attached to the Health and Human Services Commission (HHSC).

The bill creates the council on September 1, 2019 and requires that the boards and regulation of the related professions be transferred to the council no later than September 1, 2020.

The bill requires the appointment of members to the council by December 1, 2019, the hiring of an executive director by April 1, 2020, and the creation of procedural rules necessary to implement the provisions of the bill by July 31, 2020.

The bill would establish the Texas Behavioral Health Incubation Task Force to facilitate the transfer of the four boards to the council and requires that the council and transferring entities adopt a transition plan for the transfer of each board before August 31, 2020. Rules or fees for transferred programs would remain in effect until changed by the council.

The bill would require the council to adopt the Psychology Interjurisdictional Compact.

For the boards attached to HHSC, the bill would require a fingerprint background check for new and renewing licensees and require checking a national practitioner database prior to issuing or renewing a license.

The bill would exempt the council in fiscal year 2020 from a provision in the bill requiring the agency to generate sufficient revenue to cover the costs of its operations.

Except as otherwise specified, the bill would take effect on September 1, 2019.

Methodology

Under the provisions of the bill, it is assumed that BEP and the other three behavioral health boards at HHSC would continue with current appropriations for fiscal year 2020, and the four boards along with their appropriations and FTEs would transition to the council in fiscal year 2021. The appropriations for BEP and the three boards are limited to revenue collected. Under the provisions of the bill, the council's costs for fiscal year 2020 would not be subject to this limit, but

beginning in fiscal year 2021 appropriations to the council would be limited to revenue collected.

BEP's regulatory and enforcement data is stored on a database maintained by the Health Professions Council (HPC). This analysis assumes a one-time cost to General Revenue in fiscal year 2020 of \$535,800 for transferring data for the three boards at HHSC to HPC's database, \$20,000 for startup costs for network equipment and transitioning to Voice over Internet Protocol, \$220,500 for start up costs for transferring HHSC employees and temporary employees, \$30,000 for council member travel, and \$80,958 to hire an executive director for 6 months.

Beginning in fiscal year 2021 and for each fiscal year thereafter, it is assumed the removal of the programs from HHSC would result in a savings of \$1,770,785 in General Revenue and 44.0 FTEs, and the abolishment of BEP as a stand-alone agency would save \$789,570 in General Revenue and 13.5 FTEs based on fiscal year 2019 appropriations and benefits from the 2018-19 General Appropriations Act. Additionally, any Federal Funds and Appropriated Receipt collections at HHSC and BEP are excluded from the tables as they would be reduced at the boards and increased in equal amounts at the council.

This analysis assumes savings at HHSC and BEP would be offset by General Revenue costs to operate the council. BEP estimates the council will require a temporary FTE for a customer service representative for the call center in fiscal year 2021 and three temporary investigators from fiscal years 2021 to 2023 to address a backlog of complaints. Costs for operations of the council total \$4,457,517 and 61.5 FTEs in fiscal year 2021 which includes four temporary FTEs, \$4,419,236 and 60.5 FTEs in fiscal years 2022 and 2023 which includes three temporary FTEs, and an ongoing cost of \$4,272,012 and 57.5 FTEs in fiscal year 2024 and each subsequent fiscal year.

Net costs to General Revenue total \$885,008 in fiscal year 2020, \$1,897,162 in fiscal year 2021, \$1,813,736 in fiscal year 2022, \$1,858,881 in fiscal year 2023, and \$1,666,512 in fiscal year 2024. This analysis assumes that in 2021 and subsequent fiscal years any increased costs to the council, which would be statutorily obligated under the provisions of the bill to generate sufficient revenue to cover its costs of operations, would be offset by an increase in fee generated revenue. Costs for fiscal year 2020 would not be subject to this limit under the provisions of the bill.

The bill would require new and renewing applicants to submit information for a fingerprint and background check with the Department of Public Safety (DPS). This is already current practice for BEP. To implement the requirement for 55,650 licensees transferring from HHSC and 5,852 new licensees annually, the Comptroller of Public Accounts (CPA) estimates an increase to Appropriated Receipts at DPS of \$1,288,000 in FY 2020 and 2021 and \$224,000 in each subsequent fiscal year.

For fiscal year 2021 and each subsequent fiscal year, this analysis assumes an annual cost and corresponding revenue increase in Appropriated Receipts of \$15,988 to query the National Practitioner Database for each new applicant at \$2 per applicant.

This analysis assumes HHSC could implement the provisions of the bill by utilizing existing resources.

The Office of Court Administration, Office of the Governor, Office of the Attorney General, State Office of Administrative Hearings, Texas Ethics Commission, the CPA, and Department of Licensing and Regulation indicate that they could implement the provisions of the bill using existing resources. The council would become a contributing member to the Health Professions Council, and the only possible fiscal impact to HPC would be an increase in interagency contract

amounts with the council due to the council increasing the use of HPC's services.

Technology

This analysis assumes one-time costs at the council in fiscal year 2020 of \$535,800 to transfer data for the three boards at HHSC to HPC's database. Costs for fiscal year 2020 would also include \$5,000 for Voice over Internet Protocol implementation and \$15,000 for network equipment, according to BEP.

Technology costs to implement the provisions of this bill are estimated to be \$555,800 in fiscal year 2020.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal implication to counties is anticipated.

Source Agencies: 520 Board of Examiners of Psychologists, 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Trusted Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission

LBB Staff: WP, AKi, SGr, Est, DFR, AF, RC, JSm, CP, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 9, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1501 by Nevárez (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; providing civil and administrative penalties; authorizing a fee.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1501, Committee Report 2nd House, Substituted: a negative impact of (\$887,258) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$887,258)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Savings/(Cost) from Appropriated Receipts 666	Probable Revenue Gain/(Loss) from Appropriated Receipts 666
2020	(\$887,258)	\$0	(\$1,288,000)	\$1,288,000
2021	(\$1,897,162)	\$1,897,162	(\$1,303,988)	\$1,303,988
2022	(\$1,813,736)	\$1,813,736	(\$239,988)	\$239,988
2023	(\$1,858,881)	\$1,858,881	(\$239,988)	\$239,988
2024	(\$1,666,512)	\$1,666,512	(\$239,988)	\$239,988

Fiscal Year	Change in Number of State Employees from FY 2019
2020	0.5
2021	4.0
2022	3.0
2023	3.0
2024	0.0

Fiscal Analysis

The bill would add Chapter 507 to and amend various chapters of the Occupations Code to create the Texas Behavioral Health Executive Council (the council) and authorizes the council to regulate psychologists, marriage and family therapists, professional counselors, and social workers.

The listed licensee populations are currently regulated by the Texas State Board of Examiners of Psychologists (BEP) and the Texas Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners. With the exclusion of BEP, the other three boards are administratively attached to the Health and Human Services Commission (HHSC).

The bill creates the council on September 1, 2019 and requires that the boards and regulation of the related professions be transferred to the council no later than September 1, 2020.

The bill requires the appointment of members to the council by December 1, 2019, the hiring of an executive director by April 1, 2020, and the creation of procedural rules necessary to implement the provisions of the bill by July 31, 2020.

The bill would establish the Texas Behavioral Health Incubation Task Force to facilitate the transfer of the four boards to the council and requires that the council and transferring entities adopt a transition plan for the transfer of each board before August 31, 2020. Rules or fees for transferred programs would remain in effect until changed by the council.

The bill would require the council to adopt the Psychology Interjurisdictional Compact.

For the boards attached to HHSC, the bill would require a fingerprint background check for new and renewing licensees and require checking a national practitioner database prior to issuing or renewing a license.

The bill would exempt the council in fiscal year 2020 from a provision in the bill requiring the agency to generate sufficient revenue to cover the costs of its operations.

Except as otherwise specified, the bill would take effect on September 1, 2019.

Methodology

Under the provisions of the bill, it is assumed that BEP and the other three behavioral health boards at HHSC would continue with current appropriations for fiscal year 2020, and the four boards along with their appropriations and FTEs would transition to the council in fiscal year 2021. The appropriations for BEP and the three boards are limited to revenue collected. Under the provisions of the bill, the council's costs for fiscal year 2020 would not be subject to this limit, but

beginning in fiscal year 2021 appropriations to the council would be limited to revenue collected.

BEP's regulatory and enforcement data is stored on a database maintained by the Health Professions Council (HPC). This analysis assumes a one-time cost to General Revenue in fiscal year 2020 of \$535,800 for transferring data for the three boards at HHSC to HPC's database, \$20,000 for startup costs for network equipment and transitioning to Voice over Internet Protocol, \$220,500 for start up costs for transferring HHSC employees and temporary employees, \$30,000 for council member travel, and \$80,958 to hire an executive director for 6 months.

Beginning in fiscal year 2021 and for each fiscal year thereafter, it is assumed the removal of the programs from HHSC would result in a savings of \$1,770,785 in General Revenue and 44.0 FTEs, and the abolishment of BEP as a stand-alone agency would save \$789,570 in General Revenue and 13.5 FTEs based on fiscal year 2019 appropriations and benefits from the 2018-19 General Appropriations Act. Additionally, any Federal Funds and Appropriated Receipt collections at HHSC and BEP are excluded from the tables as they would be reduced at the boards and increased in equal amounts at the council.

This analysis assumes savings at HHSC and BEP would be offset by General Revenue costs to operate the council. BEP estimates the council will require a temporary FTE for a customer service representative for the call center in fiscal year 2021 and three temporary investigators from fiscal years 2021 to 2023 to address a backlog of complaints. Costs for operations of the council total \$4,457,517 and 61.5 FTEs in fiscal year 2021 which includes four temporary FTEs, \$4,419,236 and 60.5 FTEs in fiscal years 2022 and 2023 which includes three temporary FTEs, and an ongoing cost of \$4,272,012 and 57.5 FTEs in fiscal year 2024 and each subsequent fiscal year.

Net costs to General Revenue total \$885,008 in fiscal year 2020, \$1,897,162 in fiscal year 2021, \$1,813,736 in fiscal year 2022, \$1,858,881 in fiscal year 2023, and \$1,666,512 in fiscal year 2024. This analysis assumes that in 2021 and subsequent fiscal years any increased costs to the council, which would be statutorily obligated under the provisions of the bill to generate sufficient revenue to cover its costs of operations, would be offset by an increase in fee generated revenue. Costs for fiscal year 2020 would not be subject to this limit under the provisions of the bill.

The bill would require new and renewing applicants to submit information for a fingerprint and background check with the Department of Public Safety (DPS). This is already current practice for BEP. To implement the requirement for 55,650 licensees transferring from HHSC and 5,852 new licensees annually, the Comptroller of Public Accounts (CPA) estimates an increase to Appropriated Receipts at DPS of \$1,288,000 in FY 2020 and 2021 and \$224,000 in each subsequent fiscal year.

For fiscal year 2021 and each subsequent fiscal year, this analysis assumes an annual cost and corresponding revenue increase in Appropriated Receipts of \$15,988 to query the National Practitioner Database for each new applicant at \$2 per applicant.

This analysis assumes HHSC could implement the provisions of the bill by utilizing existing resources.

The Office of Court Administration, Office of the Governor, Office of the Attorney General, State Office of Administrative Hearings, Texas Ethics Commission, the CPA, and Department of Licensing and Regulation indicate that they could implement the provisions of the bill using existing resources. The council would become a contributing member to the Health Professions Council, and the only possible fiscal impact to HPC would be an increase in interagency contract

amounts with the council due to the council increasing the use of HPC's services.

Technology

This analysis assumes one-time costs at the council in fiscal year 2020 of \$535,800 to transfer data for the three boards at HHSC to HPC's database. Costs for fiscal year 2020 would also include \$5,000 for Voice over Internet Protocol implementation and \$15,000 for network equipment, according to BEP.

Technology costs to implement the provisions of this bill are estimated to be \$555,800 in fiscal year 2020.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal implication to counties is anticipated.

Source Agencies: 520 Board of Examiners of Psychologists, 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission

LBB Staff: WP, AKi, SGr, ESt, DFR, AF, RC, JSm, CP, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 29, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1501 by Nevárez (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; providing civil and administrative penalties; authorizing a fee.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1501, As Engrossed: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i>	Probable Savings/(Cost) from <i>Appropriated Receipts</i>	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i>
	1	1	666	666
2020	(\$666,758)	\$666,758	(\$1,288,000)	\$1,288,000
2021	(\$1,026,749)	\$1,026,749	(\$1,303,988)	\$1,303,988
2022	(\$943,323)	\$943,323	(\$239,988)	\$239,988
2023	(\$988,468)	\$988,468	(\$239,988)	\$239,988
2024	(\$796,099)	\$796,099	(\$239,988)	\$239,988

Fiscal Year	Change in Number of State Employees from FY 2019
2020	0.5
2021	4.0
2022	3.0
2023	3.0
2024	0.0

Fiscal Analysis

The bill would add Chapter 507 to and amend various chapters of the Occupations Code to create the Texas Behavioral Health Executive Council (the council) and authorizes the council to regulate psychologists, marriage and family therapists, professional counselors, and social workers.

The listed licensee populations are currently regulated by the Texas State Board of Examiners of Psychologists (BEP) and the Texas Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners. With the exclusion of BEP, the other three boards are administratively attached to the Health and Human Services Commission (HHSC).

The bill creates the council on September 1, 2019 and requires that the boards and regulation of the related professions be transferred to the council no later than September 1, 2020.

The bill requires the appointment of members to the council by December 1, 2019, the hiring of an executive director by April 1, 2020, and the creation of procedural rules necessary to implement the provisions of the bill by July 31, 2020.

The bill would establish the Texas Behavioral Health Incubation Task Force to facilitate the transfer of the four boards to the council and requires that the council and transferring entities adopt a transition plan for the transfer of each board before August 31, 2020. Rules or fees for transferred programs would remain in effect until changed by the council.

The bill would require the council to adopt the Psychology Interjurisdictional Compact.

For the boards attached to HHSC, the bill would require a fingerprint background check for new and renewing licensees and require checking a national practitioner database prior to issuing or renewing a license.

Except as otherwise specified, the bill would take effect on September 1, 2019.

Methodology

Under the provisions of the bill, it is assumed that BEP and the other three behavioral health boards at HHSC would continue with current appropriations for fiscal year 2020, and the four boards along with their appropriations and FTEs would transition to the council in fiscal year 2021. The appropriations for BEP and the three boards are limited to revenue collected, and upon creation, the council would also be subject to this limit.

BEP's regulatory and enforcement data is stored on a database maintained by the Health Professions Council (HPC). This analysis assumes a one-time cost to General Revenue in fiscal year 2020 of \$535,800 for transferring data for the three boards at HHSC to HPC's database, \$20,000 for startup costs for network equipment and transitioning to Voice over Internet Protocol, \$30,000 for council member travel, and \$80,958 to hire an executive director for 6 months.

Beginning in fiscal year 2021 and for each fiscal year thereafter, it is assumed the removal of the programs from HHSC would result in a savings of \$1,770,785 in General Revenue and 44.0 FTEs, and the abolishment of BEP as a stand-alone agency would save \$789,570 in General Revenue and 13.5 FTEs based on fiscal year 2019 appropriations and benefits from the 2018-19 General Appropriations Act. Additionally, any Federal Funds and Appropriated Receipt collections at HHSC and BEP are excluded from the tables as they would be reduced at the boards and increased in equal amounts at the council.

This analysis assumes savings at HHSC and BEP would be offset by General Revenue costs to operate the council. BEP estimates the council will require a temporary FTE for a customer service representative for the call center in fiscal year 2021 and three temporary investigators from fiscal year 2021 to 2023 to address a backlog of complaints. Costs for operations of the council total \$3,587,104 and 61.5 FTEs in fiscal year 2021 which includes four temporary FTEs, \$3,548,823 and 60.5 FTEs in fiscal years 2022 and 2023 which includes three temporary FTEs, and an ongoing cost of \$3,401,599 and 57.5 FTEs in fiscal year 2024 and each subsequent fiscal year.

Net costs to General Revenue total \$666,758 in fiscal year 2020, \$1,026,749 in fiscal year 2021, \$943,323 in fiscal year 2022, \$988,468 in fiscal year 2023, and \$796,099 in fiscal year 2024 and each subsequent fiscal year. This analysis assumes that any increased costs to the council, which would be statutorily obligated under the provisions of the bill to generate sufficient revenue to cover its costs of operations, would be offset by an increase in fee generated revenue.

The bill would require new and renewing applicants to submit information for a fingerprint and background check with the Department of Public Safety (DPS). This is already current practice for BEP. To implement the requirement for 55,650 licensees transferring from HHSC and 5,852 new licensees annually, the Comptroller of Public Accounts (CPA) estimates an increase to Appropriated Receipts at DPS of \$1,288,000 in FY 2020 and 2021 and \$224,000 in each subsequent fiscal year.

For fiscal year 2021 and each subsequent fiscal year, this analysis assumes an annual cost and corresponding revenue increase in Appropriated Receipts of \$15,988 to query the National Practitioner Database for each new applicant at \$2 per applicant.

This analysis assumes HHSC could implement the provisions of the bill by utilizing existing resources.

The Office of Court Administration, Office of the Governor, Office of the Attorney General, State Office of Administrative Hearings, Texas Ethics Commission, the CPA, and Department of

Licensing and Regulation indicate that they could implement the provisions of the bill using existing resources. The council would become a contributing member to the Health Professions Council, and the only possible fiscal impact to HPC would be an increase in interagency contract amounts with the council due to the council increasing the use of HPC's services.

Technology

This analysis assumes one-time costs at the council in fiscal year 2020 of \$535,800 to transfer data for the three boards at HHSC to HPC's database. Costs for fiscal year 2020 would also include \$5,000 for Voice over Internet Protocol implementation and \$15,000 for network equipment, according to BEP.

Technology costs to implement the provisions of this bill are estimated to be \$555,800 in fiscal year 2020.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal implication to counties is anticipated.

Source Agencies: 520 Board of Examiners of Psychologists, 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Truusted Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission

LBB Staff: WP, AKi, SGr, ESt, DFR, AF, RC, JSm, CP, MNa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 13, 2019

TO: Honorable Senfronia Thompson, Chair, House Committee on Public Health

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: HB1501 by Nevárez (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; providing civil and administrative penalties; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1501, As Introduced: a negative impact of (\$135,200) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$135,200)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Appropriated Receipts</i> 666	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	(\$1,040,666)	\$905,466	(\$1,288,000)	\$1,288,000
2021	(\$402,132)	\$402,132	(\$1,288,000)	\$1,288,000
2022	(\$402,132)	\$402,132	(\$224,000)	\$224,000
2023	(\$216,436)	\$216,436	(\$224,000)	\$224,000
2024	(\$216,436)	\$216,436	(\$224,000)	\$224,000

Fiscal Year	Change in Number of State Employees from FY 2019
2020	4.0
2021	4.0
2022	4.0
2023	0.0
2024	0.0

Fiscal Analysis

The bill would add Chapter 507 to and amend various chapters of the Occupations Code to create the Texas Behavioral Health Executive Council (the council) and authorizes the council to regulate psychologists, marriage and family therapists, professional counselors, and social workers.

The listed licensee populations are currently regulated by the Texas State Board of Examiners of Psychologists (BEP) and the Texas Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners. With the exclusion of BEP, the other three boards are administratively attached to the Health and Human Services Commission (HHSC).

The bill creates the council on September 1, 2019 and requires that the boards and regulation of the related professions be transferred to the council no later than September 1, 2020.

The bill requires the appointment of members to the council by December 1, 2019, hiring of an executive director by April 1, 2020, and the creation procedural rules necessary to implement the provisions of the bill by July 31, 2020.

The bill would establish the Texas Behavioral Health Incubation Task Force to facilitate the transfer of the four boards to the council and requires that the council and transferring entities adopt a transition plan for the transfer of each board before August 31, 2020. Rules or fees for transferred programs will remain in effect until changed by the council.

The bill would require the council to adopt the Psychology Interjurisdictional Compact.

For the boards attached to HHSC, the bill would require a fingerprint background check for new and renewing licensees and require checking a national practitioner database prior to issuing or renewing a license.

Except as otherwise specified, the bill would take effect on September 1, 2019.

Methodology

Under the provisions of the bill, it is assumed that BEP and the other three behavioral health boards at HHSC would continue with current appropriations for fiscal year 2020, and the four boards along with their appropriations and FTEs would transition to the council in fiscal year 2021. BEP is an agency whose appropriations are limited to revenue collected, and upon creation, the council would also be subject to this limit.

This analysis assumes a cost of \$1,040,666 to General Revenue in fiscal year 2020 and assumes that transferring boards and the council will increase fees or use available revenue to fund the cost of implementing the provisions of the bill with the exception of a cost of \$135,200 in General Revenue in fiscal year 2020 for an appropriation to HHSC of 4 additional temporary administrative assistants. HHSC indicates a need for 4 additional temporary FTEs in fiscal year 2020 for administrative assistants to assist with the ongoing operation of the three administratively attached boards and the transition of the boards to the council.

BEP's regulatory and enforcement data is on a database maintained by the Health Professions Council (HPC). This analysis assumes a cost to General Revenue of \$535,800 in fiscal year 2020 for transferring data for the three boards at HHSC to HPC's database, \$119,718 in fiscal year 2021, and \$133,718 in each subsequent fiscal year.

According to the Sunset Advisory Commission (Sunset), the startup cost in fiscal year 2020 for purchasing new equipment for 54 full-time-equivalent (FTE) positions transferring from HHSC would be \$216,000. BEP estimates costs for council member travel to include \$31,620 in General Revenue in fiscal year 2020 and \$25,000 in subsequent fiscal years. According to BEP, there would be a \$20,000 cost to General Revenue in fiscal year 2020 for startup costs for network equipment and transitioning to Voice over Internet Protocol.

This analysis assumes a cost of \$15,988 in fiscal year 2020 and each subsequent fiscal year to query the National Practitioner Database for each new applicant at \$2 per applicant. To join the Psychology Interjurisdictional Compact, Sunset and BEP anticipate a cost of \$6,000 in fiscal year 2020 and each subsequent fiscal year.

Beginning in fiscal year 2021 and each fiscal year thereafter, it is assumed the removal of the three boards at HHSC and abolishment of BEP would result in a savings. Additionally, any Federal Funds and Appropriated Receipt collections at HHSC and BEP are excluded from the tables as they would be reduced at the boards and increased in equal amounts at the council. This analysis assumes any savings from the transfer of the four boards to the council would be offset by costs to General Revenue.

To implement the provisions of the bill, Sunset and BEP estimate the council will need a temporary additional FTE and a cost of \$80,958 in fiscal year 2020 to hire an executive director for 6 months. BEP estimates that the council will also need an additional 4 temporary FTEs in fiscal years 2021 and 2022 to address licensee questions and a backlog of complaints at the four behavioral health boards. This would have a cost to General Revenue of \$199,696 in fiscal year 2021 and 2022 and no cost in subsequent fiscal years.

The bill would require new and renewing applicants to submit information for a fingerprint and background check with the Department of Public Safety (DPS). This is already current practice for BEP. To implement the requirement for 55,650 current licensees transferring from HHSC and 5,852 new licensees annually, the Comptroller of Public Accounts (CPA) estimates an increase to Appropriated Receipts at DPS of \$1,288,000 in FY 2020 and 2021 assuming a biennial renewal for

licensees and \$224,000 in each subsequent fiscal year.

The Office of Court Administration, Office of the Governor, Office of the Attorney General, State Office of Administrative Hearings, Texas Ethics Commission, the CPA, and Department of Licensing and Regulation indicate that they could implement the provisions of the bill using existing resources. The council would become a contributing member to the Health Professions Council, and the only possible fiscal impact to HPC would be an increase in interagency contract amounts with the council due to the council increasing the use of HPC's services.

The estimated total to comply with the provisions of the bill would be 4 temporary FTEs and \$1,040,666 in fiscal year 2020, 4 temporary FTEs and \$402,132 in fiscal years 2021 and 2022, and zero additional FTEs and \$216,436 in each subsequent fiscal year.

Technology

This analysis assumes one-time costs at the council in fiscal year 2020 of \$535,800 to transfer data for the three boards at HHSC to HPC's database and an ongoing increased cost for the database of \$119,718 in fiscal year 2021 and \$133,718 in each subsequent fiscal year. Costs for fiscal year 2020 would also include \$5,000 for Voice over Internet Protocol Implementation, and \$15,000 for network equipment, according to BEP.

Technology costs to implement the provisions of this bill are estimated to be \$555,800 in fiscal year 2020, \$119,718 in fiscal year 2021, and \$133,718 in each subsequent fiscal year.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal implication to counties is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 520 Board of Examiners of Psychologists, 529 Health and Human Services Commission

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