

1-1 By: Nevárez (Senate Sponsor - Nichols) H.B. No. 1501  
 1-2 (In the Senate - Received from the House April 11, 2019;  
 1-3 April 15, 2019, read first time and referred to Committee on Health  
 1-4 & Human Services; May 9, 2019, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 May 9, 2019, sent to printer.)

1-7 COMMITTEE VOTE

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

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1501 By: Perry

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

1-21 relating to the creation of the Texas Behavioral Health Executive  
 1-22 Council and to the continuation and transfer of the regulation of  
 1-23 psychologists, marriage and family therapists, professional  
 1-24 counselors, and social workers to the Texas Behavioral Health  
 1-25 Executive Council; providing civil and administrative penalties;  
 1-26 authorizing a fee.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-28 ARTICLE 1. CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE  
 1-29 COUNCIL

1-30 SECTION 1.001. Subtitle I, Title 3, Occupations Code, is  
 1-31 amended by adding Chapter 507 to read as follows:

1-32 CHAPTER 507. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL  
 1-33 SUBCHAPTER A. GENERAL PROVISIONS

1-34 Sec. 507.001. DEFINITIONS. In this chapter:

1-35 (1) "Executive council" means the Texas Behavioral  
 1-36 Health Executive Council.

1-37 (2) "License" means a license, certification,  
 1-38 registration, or other authorization that is issued by the  
 1-39 executive council.

1-40 (3) "Marriage and family therapy board" means the  
 1-41 Texas State Board of Examiners of Marriage and Family Therapists.

1-42 (4) "Professional counseling board" means the Texas  
 1-43 State Board of Examiners of Professional Counselors.

1-44 (5) "Psychology board" means the Texas State Board of  
 1-45 Examiners of Psychologists.

1-46 (6) "Social work board" means the Texas State Board of  
 1-47 Social Worker Examiners.

1-48 Sec. 507.002. APPLICATION OF SUNSET ACT. The Texas  
 1-49 Behavioral Health Executive Council is subject to Chapter 325,  
 1-50 Government Code (Texas Sunset Act). Unless continued in existence  
 1-51 as provided by that chapter, the executive council is abolished and  
 1-52 this chapter and Chapters 501, 502, 503, and 505 expire September 1,  
 1-53 2031.

1-54 SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

1-55 Sec. 507.051. EXECUTIVE COUNCIL MEMBERSHIP. (a) The Texas  
 1-56 Behavioral Health Executive Council consists of nine members as  
 1-57 follows:

1-58 (1) one marriage and family therapist member and one  
 1-59 public member of the marriage and family therapy board, each  
 1-60 appointed by that board;

2-1 (2) one licensed professional counselor member and one  
 2-2 public member of the professional counseling board, each appointed  
 2-3 by that board;

2-4 (3) one psychologist member and one public member of  
 2-5 the psychology board, each appointed by that board;

2-6 (4) one social worker member and one public member of  
 2-7 the social work board, each appointed by that board; and

2-8 (5) one public member appointed by the governor.

2-9 (b) Appointments to the executive council shall be made  
 2-10 without regard to the race, color, disability, sex, age, religion,  
 2-11 or national origin of the appointee.

2-12 Sec. 507.052. ELIGIBILITY OF PUBLIC MEMBER APPOINTED BY  
 2-13 GOVERNOR. A person is not eligible for appointment by the governor  
 2-14 as a public member of the executive council if the person or the  
 2-15 person's spouse:

2-16 (1) is registered, certified, or licensed by an  
 2-17 occupational regulatory agency in the field of health care;

2-18 (2) is employed by or participates in the management  
 2-19 of a business entity or other organization regulated by or  
 2-20 receiving money from the executive council, the marriage and family  
 2-21 therapy board, the professional counseling board, the psychology  
 2-22 board, or the social work board;

2-23 (3) owns or controls, directly or indirectly, more  
 2-24 than a 10 percent interest in a business entity or other  
 2-25 organization regulated by or receiving money from the executive  
 2-26 council, the marriage and family therapy board, the professional  
 2-27 counseling board, the psychology board, or the social work board;  
 2-28 or

2-29 (4) uses or receives a substantial amount of tangible  
 2-30 goods, services, or money from the executive council, the marriage  
 2-31 and family therapy board, the professional counseling board, the  
 2-32 psychology board, or the social work board, other than compensation  
 2-33 or reimbursement authorized by law for executive council, marriage  
 2-34 and family therapy board, professional counseling board,  
 2-35 psychology board, or social work board membership, attendance, or  
 2-36 expenses.

2-37 Sec. 507.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
 2-38 In this section, "Texas trade association" means a cooperative and  
 2-39 voluntarily joined statewide association of business or  
 2-40 professional competitors in this state designed to assist its  
 2-41 members and its industry or profession in dealing with mutual  
 2-42 business or professional problems and in promoting their common  
 2-43 interest.

2-44 (b) A person may not be a member of the executive council and  
 2-45 may not be an executive council employee employed in a "bona fide  
 2-46 executive, administrative, or professional capacity," as that  
 2-47 phrase is used for purposes of establishing an exemption to the  
 2-48 overtime provisions of the federal Fair Labor Standards Act of 1938  
 2-49 (29 U.S.C. Section 201 et seq.) if:

2-50 (1) the person is an officer, employee, or paid  
 2-51 consultant of a Texas trade association in the field of health care;  
 2-52 or

2-53 (2) the person's spouse is an officer, manager, or paid  
 2-54 consultant of a Texas trade association in the field of health care.

2-55 (c) A person may not be a member of the executive council or  
 2-56 act as the general counsel to the executive council if the person is  
 2-57 required to register as a lobbyist under Chapter 305, Government  
 2-58 Code, because of the person's activities for compensation on behalf  
 2-59 of a profession related to the operation of the executive council,  
 2-60 the marriage and family therapy board, the professional counseling  
 2-61 board, the psychology board, or the social work board.

2-62 Sec. 507.054. TERMS; VACANCY. (a) The member appointed by  
 2-63 the governor serves a six-year term. The remaining members serve  
 2-64 two-year terms with the terms of four of those members expiring  
 2-65 February 1 of each year.

2-66 (b) A member appointed to fill a vacancy holds office for  
 2-67 the unexpired portion of the term.

2-68 Sec. 507.055. PRESIDING OFFICER. The member appointed by  
 2-69 the governor is the presiding officer of the executive council.

3-1 Sec. 507.056. GROUNDS FOR REMOVAL. (a) It is a ground for  
3-2 removal from the executive council that a member:

3-3 (1) does not have at the time of taking office the  
3-4 qualifications required by Section 507.051;

3-5 (2) does not maintain during service on the executive  
3-6 council the qualifications required by Section 507.051;

3-7 (3) is ineligible for membership under Section 507.052  
3-8 or 507.053;

3-9 (4) cannot, because of illness or disability,  
3-10 discharge the member's duties for a substantial part of the member's  
3-11 term; or

3-12 (5) is absent from more than half of the regularly  
3-13 scheduled executive council meetings that the member is eligible to  
3-14 attend during a calendar year without an excuse approved by a  
3-15 majority vote of the executive council.

3-16 (b) The validity of an action of the executive council is  
3-17 not affected by the fact that it is taken when a ground for removal  
3-18 of an executive council member exists.

3-19 (c) If the executive director has knowledge that a potential  
3-20 ground for removal exists, the executive director shall notify the  
3-21 presiding officer of the executive council of the potential ground.  
3-22 The presiding officer shall then notify the appointing authority  
3-23 and the attorney general that a potential ground for removal  
3-24 exists. If the potential ground for removal involves the presiding  
3-25 officer, the executive director shall notify the next highest  
3-26 ranking officer of the executive council, who shall then notify the  
3-27 appointing authority and the attorney general that a potential  
3-28 ground for removal exists.

3-29 Sec. 507.057. REIMBURSEMENT. A member of the executive  
3-30 council may receive reimbursement for travel expenses as provided  
3-31 by the General Appropriations Act.

3-32 Sec. 507.058. MEETINGS. (a) The executive council shall  
3-33 hold at least two regular meetings each year.

3-34 (b) The executive council may hold additional meetings on  
3-35 the request of the presiding officer or on the written request of  
3-36 three members of the executive council.

3-37 Sec. 507.059. TRAINING. (a) A person who is appointed to  
3-38 and qualifies for office as a member of the executive council may  
3-39 not vote, deliberate, or be counted as a member in attendance at a  
3-40 meeting of the executive council until the person completes a  
3-41 training program that complies with this section.

3-42 (b) The training program must provide the person with  
3-43 information regarding:

3-44 (1) the law governing executive council operations;

3-45 (2) the programs, functions, rules, and budget of the  
3-46 executive council;

3-47 (3) the scope of and limitations on the rulemaking  
3-48 authority of the executive council;

3-49 (4) the types of executive council rules,  
3-50 interpretations, and enforcement actions that may implicate  
3-51 federal antitrust law by limiting competition or impacting prices  
3-52 charged by persons engaged in a profession or business the  
3-53 executive council regulates, including any rule, interpretation,  
3-54 or enforcement action that:

3-55 (A) regulates the scope of practice of persons in  
3-56 a profession or business the executive council regulates;

3-57 (B) restricts advertising by persons in a  
3-58 profession or business the executive council regulates;

3-59 (C) affects the price of goods or services  
3-60 provided by persons in a profession or business the executive  
3-61 council regulates; or

3-62 (D) restricts participation in a profession or  
3-63 business the executive council regulates;

3-64 (5) the results of the most recent formal audit of the  
3-65 executive council;

3-66 (6) the requirements of:

3-67 (A) laws relating to open meetings, public  
3-68 information, administrative procedure, and disclosure of conflicts  
3-69 of interest; and

4-1 (B) other laws applicable to members of the  
 4-2 executive council in performing their duties; and  
 4-3 (7) any applicable ethics policies adopted by the  
 4-4 executive council or the Texas Ethics Commission.

4-5 (c) A person appointed to the executive council is entitled  
 4-6 to reimbursement, as provided by the General Appropriations Act,  
 4-7 for the travel expenses incurred in attending the training program  
 4-8 regardless of whether the attendance at the program occurs before  
 4-9 or after the person qualifies for office.

4-10 (d) The executive director of the executive council shall  
 4-11 create a training manual that includes the information required by  
 4-12 Subsection (b). The executive director shall distribute a copy of  
 4-13 the training manual annually to each executive council member.  
 4-14 Each member of the executive council shall sign and submit to the  
 4-15 executive director a statement acknowledging that the member  
 4-16 received and has reviewed the training manual.

#### 4-17 SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

4-18 Sec. 507.101. EXECUTIVE DIRECTOR; PERSONNEL. The executive  
 4-19 council shall employ an executive director and other personnel as  
 4-20 necessary to administer this chapter and carry out the functions of  
 4-21 the executive council.

4-22 Sec. 507.102. DIVISION OF RESPONSIBILITIES. The executive  
 4-23 council shall develop and implement policies that clearly separate  
 4-24 the policymaking responsibilities of the executive council and the  
 4-25 management responsibilities of the executive director and the staff  
 4-26 of the executive council.

4-27 Sec. 507.103. CAREER LADDER PROGRAM; PERFORMANCE  
 4-28 EVALUATIONS. (a) The executive director or the executive  
 4-29 director's designee shall develop an intra-agency career ladder  
 4-30 program. The program must require intra-agency posting of all  
 4-31 nonentry level positions concurrently with any public posting.

4-32 (b) The executive director or the executive director's  
 4-33 designee shall develop a system of annual performance evaluations  
 4-34 based on measurable job tasks. All merit pay for executive council  
 4-35 employees must be based on the system established under this  
 4-36 subsection.

4-37 Sec. 507.104. EQUAL OPPORTUNITY POLICY; REPORT. (a) The  
 4-38 executive director or the executive director's designee shall  
 4-39 prepare and maintain a written policy statement to ensure  
 4-40 implementation of an equal opportunity program under which all  
 4-41 personnel transactions are made without regard to race, color,  
 4-42 disability, sex, age, religion, or national origin. The policy  
 4-43 statement must include:

4-44 (1) personnel policies, including policies relating  
 4-45 to recruitment, evaluation, selection, appointment, training, and  
 4-46 promotion of personnel, that are in compliance with the  
 4-47 requirements of Chapter 21, Labor Code;

4-48 (2) a comprehensive analysis of the executive council  
 4-49 workforce that meets federal and state guidelines;

4-50 (3) procedures by which a determination can be made of  
 4-51 significant underuse in the executive council workforce of all  
 4-52 persons for whom federal or state guidelines encourage a more  
 4-53 equitable balance; and

4-54 (4) reasonable methods to appropriately address those  
 4-55 areas of significant underuse.

4-56 (b) A policy statement prepared under Subsection (a) must:

4-57 (1) cover an annual period;

4-58 (2) be updated annually;

4-59 (3) be reviewed by the Texas Workforce Commission for  
 4-60 compliance with Subsection (a)(1); and

4-61 (4) be filed with the governor.

4-62 (c) The governor shall deliver a biennial report to the  
 4-63 legislature based on information received under Subsection (b).  
 4-64 The report may be made separately or as part of other biennial  
 4-65 reports made to the legislature.

#### 4-66 SUBCHAPTER D. POWERS AND DUTIES

4-67 Sec. 507.151. GENERAL POWERS AND DUTIES. (a) The executive  
 4-68 council shall administer and enforce this chapter and Chapters 501,  
 4-69 502, 503, and 505.

5-1 (b) In carrying out its duties under this section, the  
5-2 executive council may request input or assistance from the board  
5-3 for the applicable profession.

5-4 Sec. 507.152. GENERAL RULEMAKING AUTHORITY. The executive  
5-5 council shall adopt rules as necessary to perform its duties and  
5-6 implement this chapter.

5-7 Sec. 507.153. LIMITATION REGARDING CERTAIN RULES. (a)  
5-8 Unless the rule has been proposed by the applicable board for the  
5-9 profession, the executive council may not adopt under this chapter  
5-10 or Chapter 501, 502, 503, or 505:

5-11 (1) a rule regarding:

5-12 (A) the qualifications necessary to obtain a  
5-13 license, including limiting an applicant's eligibility for a  
5-14 license based on the applicant's criminal history;

5-15 (B) the scope of practice of and standards of  
5-16 care and ethical practice for the profession; or

5-17 (C) continuing education requirements for  
5-18 license holders; or

5-19 (2) a schedule of sanctions for violations of the laws  
5-20 and rules applicable to the profession.

5-21 (b) For each rule proposed under Subsection (a), the  
5-22 executive council shall either adopt the rule as proposed or return  
5-23 the rule to the applicable board for revision. On the return of a  
5-24 rule under this subsection, the executive council shall include an  
5-25 explanation of the executive council's reasons for not adopting the  
5-26 rule as proposed.

5-27 (c) The executive council retains authority for final  
5-28 adoption of all rules and is responsible for ensuring compliance  
5-29 with all laws regarding the rulemaking process.

5-30 (d) The executive council shall adopt rules prescribing the  
5-31 procedure by which rules described by Subsection (a) may be  
5-32 proposed to the executive council.

5-33 Sec. 507.154. FEES. The executive council shall set fees in  
5-34 amounts reasonable and necessary to cover the costs of  
5-35 administering this chapter and Chapters 501, 502, 503, and 505,  
5-36 including fees for:

5-37 (1) licenses issued by the executive council;

5-38 (2) license renewals and late renewals;

5-39 (3) examinations; and

5-40 (4) any other program or activity administered by the  
5-41 executive council for which a fee is authorized.

5-42 Sec. 507.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
5-43 BIDDING. (a) The executive council may not adopt rules restricting  
5-44 advertising or competitive bidding by a person regulated by the  
5-45 executive council except to prohibit false, misleading, or  
5-46 deceptive practices.

5-47 (b) The executive council may not include in rules to  
5-48 prohibit false, misleading, or deceptive practices by a person  
5-49 regulated by the executive council a rule that:

5-50 (1) restricts the person's use of any advertising  
5-51 medium;

5-52 (2) restricts the person's personal appearance or use  
5-53 of the person's voice in an advertisement;

5-54 (3) relates to the size or duration of an  
5-55 advertisement by the person; or

5-56 (4) restricts the use of a trade name in advertising by  
5-57 the person.

5-58 Sec. 507.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.  
5-59 The executive council shall adopt rules and guidelines as necessary  
5-60 to comply with Chapter 53.

5-61 Sec. 507.157. CONTINUING EDUCATION. The executive council  
5-62 shall recognize, prepare, or administer continuing education  
5-63 programs for license holders. A license holder must participate in  
5-64 the programs to the extent required by the executive council to keep  
5-65 the person's license.

5-66 Sec. 507.158. USE OF TECHNOLOGY. The executive council  
5-67 shall implement a policy requiring the executive council to use  
5-68 appropriate technological solutions to improve the executive  
5-69 council's ability to perform its functions. The policy must ensure

6-1 that the public is able to interact with the executive council on  
 6-2 the Internet.

6-3 Sec. 507.159. NEGOTIATED RULEMAKING AND ALTERNATIVE  
 6-4 DISPUTE RESOLUTION POLICY. (a) The executive council shall  
 6-5 develop a policy to encourage the use of:

6-6 (1) negotiated rulemaking procedures under Chapter  
 6-7 2008, Government Code, for the adoption of executive council rules;  
 6-8 and

6-9 (2) appropriate alternative dispute resolution  
 6-10 procedures under Chapter 2009, Government Code, to assist in the  
 6-11 resolution of internal and external disputes under the executive  
 6-12 council's jurisdiction.

6-13 (b) The executive council's procedures relating to  
 6-14 alternative dispute resolution must conform, to the extent  
 6-15 possible, to any model guidelines issued by the State Office of  
 6-16 Administrative Hearings for the use of alternative dispute  
 6-17 resolution by state agencies.

6-18 (c) The executive council shall:

6-19 (1) coordinate the implementation of the policy  
 6-20 adopted under Subsection (a);

6-21 (2) provide training as needed to implement the  
 6-22 procedures for negotiated rulemaking and alternative dispute  
 6-23 resolution; and

6-24 (3) collect data concerning the effectiveness of those  
 6-25 procedures.

6-26 Sec. 507.160. ANNUAL REGISTRY. (a) The executive council  
 6-27 shall annually prepare a registry of all license holders.

6-28 (b) The executive council shall make the registry available  
 6-29 to the public, license holders, and other state agencies.

6-30 SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

6-31 Sec. 507.201. PUBLIC INTEREST INFORMATION. (a) The  
 6-32 executive council shall prepare information of public interest  
 6-33 describing the functions of the executive council and the  
 6-34 procedures by which complaints are filed with and resolved by the  
 6-35 executive council.

6-36 (b) The executive council shall make the information  
 6-37 available to the public and appropriate state agencies.

6-38 Sec. 507.202. COMPLAINTS. (a) The executive council by  
 6-39 rule shall establish methods by which consumers and service  
 6-40 recipients are notified of the name, mailing address, and telephone  
 6-41 number of the executive council for the purpose of directing  
 6-42 complaints to the executive council. The executive council may  
 6-43 provide for that notice:

6-44 (1) on each registration form, application, or written  
 6-45 contract for services of a person regulated by the executive  
 6-46 council;

6-47 (2) on a sign prominently displayed in the place of  
 6-48 business of a person regulated by the executive council; or

6-49 (3) in a bill for services provided by a person  
 6-50 regulated by the executive council.

6-51 (b) The executive council shall list with its regular  
 6-52 telephone number any toll-free telephone number established under  
 6-53 other state law that may be called to present a complaint about a  
 6-54 person regulated by the executive council.

6-55 Sec. 507.203. INFORMATION ABOUT COMPLAINT ACTIONS. (a)  
 6-56 The executive council shall maintain a system to promptly and  
 6-57 efficiently act on complaints filed with the executive council.  
 6-58 The executive council shall maintain information about parties to  
 6-59 the complaint, the subject matter of the complaint, a summary of the  
 6-60 results of the review or investigation of the complaint, and its  
 6-61 disposition.

6-62 (b) The executive council shall make information available  
 6-63 describing its procedures for complaint investigation and  
 6-64 resolution.

6-65 (c) The executive council shall periodically notify the  
 6-66 parties to a complaint of the status of the complaint until final  
 6-67 disposition of the complaint.

6-68 Sec. 507.204. GENERAL RULES REGARDING COMPLAINT  
 6-69 INVESTIGATION. (a) The executive council shall adopt rules

7-1 concerning the investigation of a complaint filed with the  
7-2 executive council. The rules adopted under this section must:

7-3 (1) distinguish between categories of complaints;  
7-4 (2) ensure that a complaint is not dismissed without  
7-5 appropriate consideration;  
7-6 (3) require that the executive council be advised of a  
7-7 complaint that is dismissed and that a letter be sent to the person  
7-8 who filed the complaint explaining the action taken on the  
7-9 complaint;

7-10 (4) ensure that the person who files a complaint has an  
7-11 opportunity to explain the allegations made in the complaint; and  
7-12 (5) prescribe guidelines concerning the categories of  
7-13 complaints that require the use of a private investigator and  
7-14 prescribe the procedures for the executive council to obtain the  
7-15 services of a private investigator.

7-16 (b) The executive council shall:

7-17 (1) dispose of a complaint in a timely manner; and  
7-18 (2) establish a schedule for conducting each phase of  
7-19 the disposition of a complaint that is under the control of the  
7-20 executive council not later than the 30th day after the date the  
7-21 executive council receives the complaint.

7-22 (c) The executive council shall notify the parties to a  
7-23 complaint of the projected time requirements for pursuing the  
7-24 complaint.

7-25 (d) The executive council shall notify the parties to a  
7-26 complaint of any change in the schedule not later than the seventh  
7-27 day after the date the change is made.

7-28 (e) The executive director shall notify the executive  
7-29 council of a complaint that is unresolved after the time prescribed  
7-30 by the executive council for resolving the complaint so that the  
7-31 executive council may take necessary action on the complaint.

7-32 (f) The executive council shall assign priorities and  
7-33 investigate complaints based on:

7-34 (1) the severity of the conduct alleged in the  
7-35 complaint; and  
7-36 (2) the degree of harm to public health and safety.

7-37 Sec. 507.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.

7-38 (a) Except as provided by Subsection (b), a complaint and  
7-39 investigation and all information and materials compiled by the  
7-40 executive council in connection with the complaint and  
7-41 investigation are not subject to:

7-42 (1) disclosure under Chapter 552, Government Code; or  
7-43 (2) disclosure, discovery, subpoena, or other means of  
7-44 legal compulsion for release of information to any person.

7-45 (b) A complaint or investigation subject to Subsection (a)  
7-46 and all information and materials compiled by the executive council  
7-47 in connection with the complaint may be disclosed to:

7-48 (1) the executive council and executive council  
7-49 employees or agents involved in license holder discipline;  
7-50 (2) a party to a disciplinary action against the  
7-51 license holder or that party's designated representative;  
7-52 (3) the board for the applicable profession;  
7-53 (4) a law enforcement agency;  
7-54 (5) a governmental agency, if:

7-55 (A) the disclosure is required or permitted by  
7-56 law; and  
7-57 (B) the agency obtaining the disclosure protects  
7-58 the identity of any patient whose records are examined; or  
7-59 (6) a person engaged in bona fide research, if all  
7-60 information identifying a specific individual has been deleted.

7-61 (c) Unless good cause for delay is shown to the presiding  
7-62 officer at the hearing, the executive council shall provide the  
7-63 license holder with access to all information that the executive  
7-64 council intends to offer into evidence at the hearing not later than  
7-65 the 30th day after the date the executive council receives a written  
7-66 request from a license holder who is entitled to a hearing under  
7-67 this chapter or from the license holder's attorney of record.

7-68 (d) The executive council shall protect the identity of any  
7-69 patient whose records are examined in connection with a

8-1 disciplinary investigation or proceeding against a license holder,  
 8-2 except a patient who:

- 8-3 (1) initiates the disciplinary action; or  
 8-4 (2) has submitted a written consent to release the  
 8-5 records.

8-6 Sec. 507.206. SUBPOENAS. (a) In the investigation of a  
 8-7 complaint filed with the executive council, the executive director  
 8-8 or presiding officer of the executive council may issue a subpoena  
 8-9 to compel the attendance of a relevant witness or the production,  
 8-10 for inspection or copying, of relevant evidence that is in this  
 8-11 state.

8-12 (b) A subpoena may be served personally or by certified  
 8-13 mail.

8-14 (c) If a person fails to comply with a subpoena, the  
 8-15 executive council, acting through the attorney general, may file  
 8-16 suit to enforce the subpoena in a district court in Travis County or  
 8-17 in the county in which a hearing conducted by the executive council  
 8-18 may be held.

8-19 (d) On finding that good cause exists for issuing the  
 8-20 subpoena, the court shall order the person to comply with the  
 8-21 subpoena. The court may punish a person who fails to obey the court  
 8-22 order.

8-23 (e) The executive council shall pay a reasonable fee for  
 8-24 photocopies subpoenaed under this section in an amount not to  
 8-25 exceed the amount the executive council may charge for copies of its  
 8-26 records.

8-27 (f) The reimbursement of the expenses of a witness whose  
 8-28 attendance is compelled under this section is governed by Section  
 8-29 2001.103, Government Code.

8-30 (g) Information and materials subpoenaed or compiled by the  
 8-31 executive council in connection with the investigation of a  
 8-32 complaint may be disclosed only as provided by Section 507.205.

8-33 Sec. 507.207. PUBLIC PARTICIPATION. The executive council  
 8-34 shall develop and implement policies that provide the public with a  
 8-35 reasonable opportunity to appear before the executive council and  
 8-36 to speak on any issue under the jurisdiction of the executive  
 8-37 council.

#### 8-38 SUBCHAPTER F. GENERAL LICENSING PROVISIONS

8-39 Sec. 507.251. CRIMINAL HISTORY RECORD INFORMATION FOR  
 8-40 LICENSE ISSUANCE. (a) The executive council shall require that an  
 8-41 applicant for a license submit a complete and legible set of  
 8-42 fingerprints, on a form prescribed by the executive council, to the  
 8-43 executive council or to the Department of Public Safety for the  
 8-44 purpose of obtaining criminal history record information from the  
 8-45 Department of Public Safety and the Federal Bureau of  
 8-46 Investigation.

8-47 (b) The executive council may not issue a license to a  
 8-48 person who does not comply with the requirement of Subsection (a).

8-49 (c) The executive council shall conduct a criminal history  
 8-50 record information check of each applicant for a license using  
 8-51 information:

- 8-52 (1) provided by the individual under this section; and  
 8-53 (2) made available to the executive council by the  
 8-54 Department of Public Safety, the Federal Bureau of Investigation,  
 8-55 and any other criminal justice agency under Chapter 411, Government  
 8-56 Code.

8-57 (d) The executive council may:

8-58 (1) enter into an agreement with the Department of  
 8-59 Public Safety to administer a criminal history record information  
 8-60 check required under this section; and

8-61 (2) authorize the Department of Public Safety to  
 8-62 collect from each applicant the costs incurred by the Department of  
 8-63 Public Safety in conducting the criminal history record information  
 8-64 check.

8-65 Sec. 507.252. EXAMINATION RESULTS. (a) The executive  
 8-66 council shall notify each examinee of the results of an examination  
 8-67 not later than the 30th day after the date the examination is  
 8-68 administered. If an examination is graded or reviewed by a national  
 8-69 testing service, the executive council shall notify each examinee



9-1 of the results of the examination not later than the 14th day after  
 9-2 the date the executive council receives the results from the  
 9-3 testing service.

9-4 (b) If the notice of examination results graded or reviewed  
 9-5 by a national testing service will be delayed for longer than 90  
 9-6 days after the examination date, the executive council shall notify  
 9-7 each examinee of the reason for the delay before the 90th day.

9-8 (c) If requested in writing by a person who fails an  
 9-9 examination, the executive council shall provide to the person an  
 9-10 analysis of the person's performance on the examination.

9-11 Sec. 507.253. REEXAMINATION. The executive council by rule  
 9-12 shall establish:

9-13 (1) a limit on the number of times an applicant for a  
 9-14 license who fails an examination may retake the examination; and

9-15 (2) the requirements for retaking an examination.

9-16 Sec. 507.254. FORM OF LICENSE. A license issued by the  
 9-17 executive council must include the name of the board applicable to  
 9-18 the license holder.

9-19 Sec. 507.255. LICENSE RENEWAL. (a) A person who is  
 9-20 otherwise eligible to renew a license may renew an unexpired  
 9-21 license by paying the required renewal fee to the executive council  
 9-22 before the expiration date of the license.

9-23 (b) If the person's license has been expired for 90 days or  
 9-24 less, the person may renew the license by paying to the executive  
 9-25 council a fee in an amount equal to one and one-half times the  
 9-26 required renewal fee.

9-27 (c) If the person's license has been expired for more than  
 9-28 90 days but less than one year, the person may renew the license by  
 9-29 paying to the executive council a fee in an amount equal to two  
 9-30 times the required renewal fee.

9-31 (d) If the person's license has been expired for one year or  
 9-32 more, the person may not renew the license. The person may obtain a  
 9-33 new license by submitting to reexamination and complying with the  
 9-34 requirements and procedures for obtaining an original license.

9-35 Sec. 507.256. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE  
 9-36 PRACTITIONER. (a) The executive council may renew without  
 9-37 reexamination an expired license of a person who was licensed in  
 9-38 this state, moved to another state, and is currently licensed and  
 9-39 has been in practice in the other state for the two years preceding  
 9-40 the date the person applies for renewal.

9-41 (b) The person must pay to the executive council a fee in an  
 9-42 amount equal to two times the required renewal fee for the license.

9-43 Sec. 507.257. CRIMINAL HISTORY RECORD INFORMATION  
 9-44 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
 9-45 license issued under this chapter shall submit a complete and  
 9-46 legible set of fingerprints for purposes of performing a criminal  
 9-47 history record information check of the applicant as provided by  
 9-48 Section 507.251.

9-49 (b) The executive council may administratively suspend or  
 9-50 refuse to renew the license of a person who does not comply with the  
 9-51 requirement of Subsection (a).

9-52 (c) A license holder is not required to submit fingerprints  
 9-53 under this section for the renewal of a license if the license  
 9-54 holder has previously submitted fingerprints under:

9-55 (1) Section 507.251 for the initial issuance of the  
 9-56 license; or

9-57 (2) this section as part of a prior license renewal.

9-58 Sec. 507.258. SEARCH OF NATIONAL PRACTITIONER DATABASE.  
 9-59 The executive council shall establish a process to search at least  
 9-60 one national practitioner database to determine whether another  
 9-61 state has taken any disciplinary or other legal action against an  
 9-62 applicant or license holder before issuing an initial or renewal  
 9-63 license.

9-64 Sec. 507.259. ASSISTANCE IN LICENSING DETERMINATIONS. The  
 9-65 executive council shall adopt rules establishing the manner in  
 9-66 which the executive council will solicit input from and request the  
 9-67 assistance of the applicable board for a profession regulated by  
 9-68 the executive council when the executive council is considering an  
 9-69 application for the issuance or renewal of a license that involves

10-1 an issue related to standards of care or an applicant's  
 10-2 professional qualifications.

10-3 SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES

10-4 Sec. 507.301. DISCIPLINARY ACTIONS. (a) The executive  
 10-5 council may deny, revoke, suspend, or refuse to renew a license or  
 10-6 may reprimand a license holder if the applicant or license holder  
 10-7 violates:

10-8 (1) this chapter;

10-9 (2) a law of this state regulating the license holder's  
 10-10 profession;

10-11 (3) an executive council rule; or

10-12 (4) a statute or rule of another state as determined  
 10-13 through a search conducted as provided by Section 507.258 if the  
 10-14 violation would constitute a violation described by Subdivision  
 10-15 (1), (2), or (3) had it occurred in this state.

10-16 (b) The executive council may place on probation a person  
 10-17 whose license is suspended. If a license suspension is probated,  
 10-18 the executive council may require the person to:

10-19 (1) report regularly to the executive council on  
 10-20 matters that are the basis of the probation;

10-21 (2) limit the person's practice to the areas  
 10-22 prescribed by the executive council; or

10-23 (3) continue or review continuing professional  
 10-24 education until the person attains a degree of skill satisfactory  
 10-25 to the executive council in those areas that are the basis for the  
 10-26 probation.

10-27 Sec. 507.302. TEMPORARY SUSPENSION. (a) The executive  
 10-28 council or a three-member committee of executive council members  
 10-29 designated by the executive council shall temporarily suspend the  
 10-30 license of a license holder if the executive council or committee  
 10-31 determines from the evidence or information presented to it that  
 10-32 continued practice by the license holder would constitute a  
 10-33 continuing and imminent threat to the public welfare.

10-34 (b) A license may be suspended under this section without  
 10-35 notice or hearing on the complaint if:

10-36 (1) action is taken to initiate proceedings for a  
 10-37 hearing before the State Office of Administrative Hearings  
 10-38 simultaneously with the temporary suspension; and

10-39 (2) a hearing is held as soon as practicable under this  
 10-40 chapter and Chapter 2001, Government Code.

10-41 (c) The State Office of Administrative Hearings shall hold a  
 10-42 preliminary hearing not later than the 14th day after the date of  
 10-43 the temporary suspension to determine if there is probable cause to  
 10-44 believe that a continuing and imminent threat to the public welfare  
 10-45 still exists. A final hearing on the matter shall be held not later  
 10-46 than the 61st day after the date of the temporary suspension.

10-47 Sec. 507.303. HEARING; ADMINISTRATIVE PROCEDURE. (a) A  
 10-48 license holder is entitled to a hearing before the State Office of  
 10-49 Administrative Hearings before a sanction is imposed under this  
 10-50 subchapter.

10-51 (b) A proceeding under this subchapter is governed by  
 10-52 Chapter 2001, Government Code.

10-53 Sec. 507.304. SCHEDULE OF SANCTIONS. (a) The executive  
 10-54 council by rule shall adopt a broad schedule of sanctions.

10-55 (b) The State Office of Administrative Hearings shall use  
 10-56 the schedule for any sanction imposed under this subchapter as the  
 10-57 result of a hearing conducted by that office.

10-58 Sec. 507.305. INFORMAL PROCEEDINGS. (a) The executive  
 10-59 council by rule shall adopt procedures governing:

10-60 (1) informal disposition of a contested case under  
 10-61 Section 2001.056, Government Code; and

10-62 (2) an informal proceeding held in compliance with  
 10-63 Section 2001.054, Government Code.

10-64 (b) Rules adopted under this section must:

10-65 (1) provide the complainant and the license holder  
 10-66 with an opportunity to be heard; and

10-67 (2) require the presence of a member of the executive  
 10-68 council's legal staff or an attorney employed by the attorney  
 10-69 general to advise the executive council or the executive council's

11-1 employees.

11-2 Sec. 507.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS. (a)  
 11-3 The executive council shall adopt rules establishing the manner in  
 11-4 which the executive council will solicit input from and request the  
 11-5 assistance of the applicable board for a profession regulated by  
 11-6 the executive council, regarding a disciplinary proceeding before  
 11-7 the executive council involving an issue or complaint related to  
 11-8 standards of care or ethical practice.

11-9 (b) Rules adopted under this section must include a process  
 11-10 for referring a complaint to the applicable board if the complaint  
 11-11 alleges:

11-12 (1) a substantive violation of a standard of care or  
 11-13 ethical guideline for the profession; or

11-14 (2) an act of a license holder that violates the  
 11-15 profession's scope of practice.

11-16 (c) On receiving a recommended disposition of a complaint  
 11-17 from the applicable board, the executive council shall adopt the  
 11-18 recommended disposition unless the executive council determines  
 11-19 that:

11-20 (1) the recommended disposition would:

11-21 (A) have an anti-competitive effect;

11-22 (B) result in an administrative inconsistency;

11-23 or

11-24 (C) raise concerns relating to good governance  
 11-25 practices; or

11-26 (2) any recommended disciplinary penalty would  
 11-27 deviate substantially from the schedule of sanctions for the  
 11-28 applicable profession.

11-29 SUBCHAPTER H. ADMINISTRATIVE PENALTY

11-30 Sec. 507.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
 11-31 executive council may impose an administrative penalty on a person  
 11-32 licensed or regulated by the executive council if the person  
 11-33 violates this chapter, a law regulating the applicable profession,  
 11-34 or an executive council rule.

11-35 Sec. 507.352. AMOUNT OF PENALTY. (a) The amount of an  
 11-36 administrative penalty may not exceed \$5,000 for each violation.  
 11-37 Each day a violation continues or occurs is a separate violation for  
 11-38 purposes of imposing a penalty.

11-39 (b) The amount of the penalty must be based on:

11-40 (1) the seriousness of the violation, including:

11-41 (A) the nature, circumstances, extent, and  
 11-42 gravity of any prohibited act; and

11-43 (B) the hazard or potential hazard created to the  
 11-44 health, safety, or economic welfare of the public;

11-45 (2) the economic harm to property or the environment  
 11-46 caused by the violation;

11-47 (3) the history of previous violations;

11-48 (4) the amount necessary to deter a future violation;

11-49 (5) efforts made to correct the violation; and

11-50 (6) any other matter that justice may require.

11-51 Sec. 507.353. NOTICE OF VIOLATION AND PENALTY. If the  
 11-52 executive council determines that a violation occurred, the  
 11-53 executive council shall give written notice of the violation to the  
 11-54 person alleged to have committed the violation. The notice may be  
 11-55 given by certified mail. The notice must:

11-56 (1) include a brief summary of the alleged violation;

11-57 (2) state the amount of the administrative penalty  
 11-58 recommended by the executive council; and

11-59 (3) inform the person of the person's right to a  
 11-60 hearing on the occurrence of the violation, the amount of the  
 11-61 penalty, or both.

11-62 Sec. 507.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
 11-63 Not later than the 20th day after the date the person receives the  
 11-64 notice under Section 507.353, the person may in writing:

11-65 (1) accept the executive council's determination and  
 11-66 recommended administrative penalty; or

11-67 (2) request a hearing on the occurrence of the  
 11-68 violation, the amount of the penalty, or both.

11-69 (b) If the person accepts the executive council's

12-1 determination and recommended penalty, the executive council shall  
 12-2 issue an order and impose the recommended penalty.

12-3 Sec. 507.355. HEARING. (a) If the person requests a  
 12-4 hearing or fails to respond in a timely manner to the notice under  
 12-5 Section 507.353, the executive council shall set a hearing and give  
 12-6 written notice of the hearing to the person.

12-7 (b) An administrative law judge of the State Office of  
 12-8 Administrative Hearings shall hold the hearing.

12-9 (c) The administrative law judge shall make findings of fact  
 12-10 and conclusions of law and promptly issue to the executive council a  
 12-11 proposal for a decision as to the occurrence of the violation and  
 12-12 the amount of any proposed administrative penalty.

12-13 Sec. 507.356. DECISION BY EXECUTIVE COUNCIL. (a) Based on  
 12-14 the findings of fact, conclusions of law, and proposal for a  
 12-15 decision, the executive council by order may determine that:

12-16 (1) a violation occurred and impose an administrative  
 12-17 penalty; or

12-18 (2) a violation did not occur.

12-19 (b) The executive council shall give notice of the order to  
 12-20 the person. The notice must include a statement of the right of the  
 12-21 person to judicial review of the order.

12-22 Sec. 507.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

12-23 (a) Not later than the 30th day after the date the executive  
 12-24 council's order becomes final, the person shall:

12-25 (1) pay the administrative penalty; or

12-26 (2) file a petition for judicial review contesting the  
 12-27 occurrence of the violation, the amount of the penalty, or both.

12-28 (b) Within the 30-day period prescribed by Subsection (a), a  
 12-29 person who files a petition for judicial review may:

12-30 (1) stay enforcement of the penalty by:

12-31 (A) paying the penalty to the court for placement  
 12-32 in an escrow account; or

12-33 (B) giving to the court a supersedeas bond  
 12-34 approved by the court that is:

12-35 (i) for the amount of the penalty; and

12-36 (ii) effective until judicial review of the  
 12-37 executive council's order is final; or

12-38 (2) request the court to stay enforcement of the  
 12-39 penalty by:

12-40 (A) filing with the court a sworn affidavit of  
 12-41 the person stating that the person is financially unable to pay the  
 12-42 penalty and is financially unable to give the supersedeas bond; and

12-43 (B) giving a copy of the affidavit to the  
 12-44 executive council by certified mail.

12-45 (c) If the executive council receives a copy of an affidavit  
 12-46 under Subsection (b)(2), the executive council may file with the  
 12-47 court a contest to the affidavit not later than the fifth day after  
 12-48 the date the copy is received.

12-49 (d) The court shall hold a hearing on the facts alleged in  
 12-50 the affidavit as soon as practicable and shall stay the enforcement  
 12-51 of the penalty on finding that the alleged facts are true. The  
 12-52 person who files the affidavit has the burden of proving that the  
 12-53 person is financially unable to pay the penalty or to give a  
 12-54 supersedeas bond.

12-55 Sec. 507.358. COLLECTION OF PENALTY. If the person does not  
 12-56 pay the administrative penalty and enforcement of the penalty is  
 12-57 not stayed, the executive council may refer the matter to the  
 12-58 attorney general for collection of the penalty.

12-59 Sec. 507.359. DETERMINATION BY COURT. (a) If the court  
 12-60 sustains the determination that a violation has occurred, the court  
 12-61 may uphold or reduce the amount of the administrative penalty and  
 12-62 order the person to pay the full or reduced amount of the penalty.

12-63 (b) If the court does not sustain the determination that a  
 12-64 violation occurred, the court shall order that a penalty is not  
 12-65 owed.

12-66 Sec. 507.360. REMITTANCE OF PENALTY AND INTEREST. (a) If,  
 12-67 after judicial review, the administrative penalty is reduced or not  
 12-68 imposed by the court, the court shall, after the judgment becomes  
 12-69 final:

13-1 (1) order that the appropriate amount, plus accrued  
13-2 interest, be remitted to the person if the person paid the penalty;  
13-3 or

13-4 (2) order the release of the bond:  
13-5 (A) if the person gave a supersedeas bond and the  
13-6 penalty is not imposed; or  
13-7 (B) after the person pays the penalty if the  
13-8 person gave a supersedeas bond and the penalty is reduced.

13-9 (b) The interest paid under Subsection (a)(1) is the rate  
13-10 charged on loans to depository institutions by the New York Federal  
13-11 Reserve Bank. The interest shall be paid for the period beginning  
13-12 on the date the penalty is paid and ending on the date the penalty is  
13-13 remitted.

13-14 Sec. 507.361. ADMINISTRATIVE PROCEDURE. A proceeding under  
13-15 this subchapter is subject to Chapter 2001, Government Code.

13-16 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

13-17 Sec. 507.401. INJUNCTION. (a) In addition to any other  
13-18 action authorized by law, the executive council may institute an  
13-19 action to enjoin a violation of this chapter, a law regulating the  
13-20 applicable profession, or an executive council rule.

13-21 (b) An action filed under this section must be filed in  
13-22 Travis County, the county of the defendant's residence, or the  
13-23 county in which any part of the violation occurred.

13-24 (c) The attorney general or the appropriate county or  
13-25 district attorney shall represent the executive council in an  
13-26 action under this section.

13-27 Sec. 507.402. CIVIL PENALTY. (a) A person who violates  
13-28 this chapter, a law regulating the applicable profession, or an  
13-29 executive council rule is liable to the state for a civil penalty  
13-30 not to exceed \$1,000 for each day of violation.

13-31 (b) At the request of the executive council, the attorney  
13-32 general shall bring an action to recover a civil penalty authorized  
13-33 under this section.

13-34 Sec. 507.403. CEASE AND DESIST ORDER. (a) If it appears to  
13-35 the executive council that an unlicensed person is violating this  
13-36 chapter, a law regulating the applicable profession, or an  
13-37 executive council rule, the executive council, after notice and  
13-38 opportunity for a hearing, may issue a cease and desist order  
13-39 prohibiting the person from engaging in the activity.

13-40 (b) A violation of an order under this section constitutes  
13-41 grounds for imposing an administrative penalty under Subchapter H.

13-42 Sec. 507.404. MONITORING OF LICENSE HOLDER. The executive  
13-43 council by rule shall develop a system to monitor a license holder's  
13-44 compliance with applicable laws and executive council rules. Rules  
13-45 adopted under this section must include procedures to:

- 13-46 (1) monitor for compliance a license holder who is
- 13-47 ordered by the executive council to perform certain acts; and
- 13-48 (2) identify and monitor each license holder who
- 13-49 represents a risk to the public.

13-50 ARTICLE 2. TRANSFER OF LICENSING PROGRAMS TO TEXAS BEHAVIORAL  
13-51 HEALTH EXECUTIVE COUNCIL

13-52 SECTION 2.001. Section 501.002, Occupations Code, is  
13-53 amended by adding Subdivision (1-a) to read as follows:

13-54 (1-a) "Executive council" means the Texas Behavioral  
13-55 Health Executive Council.

13-56 SECTION 2.002. The heading to Section 501.053, Occupations  
13-57 Code, is amended to read as follows:

13-58 Sec. 501.053. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

13-59 SECTION 2.003. Sections 501.053(b) and (c), Occupations  
13-60 Code, are amended to read as follows:

13-61 (b) A person may not be a member of the board [~~and may not be~~  
13-62 a board employee employed in a "bona fide executive,  
13-63 administrative, or professional capacity," as that phrase is used  
13-64 for purposes of establishing an exemption to the overtime  
13-65 provisions of the federal Fair Labor Standards Act of 1938 (29  
13-66 U.S.C. Section 201 et seq.)] if:

- 13-67 (1) the person is an officer, employee, or paid
- 13-68 consultant of a Texas trade association in the field of health
- 13-69 services; or

14-1 (2) the person's spouse is an officer, manager, or paid  
 14-2 consultant of a Texas trade association in the field of mental  
 14-3 health.

14-4 (c) A person may not be a member of the board [~~or act as the~~  
 14-5 ~~general counsel to the board~~] if the person is required to register  
 14-6 as a lobbyist under Chapter 305, Government Code, because of the  
 14-7 person's activities for compensation on behalf of a profession  
 14-8 related to the operation of the board.

14-9 SECTION 2.004. Section 501.055(c), Occupations Code, is  
 14-10 amended to read as follows:

14-11 (c) If the executive director of the executive council has  
 14-12 knowledge that a potential ground for removal exists, the executive  
 14-13 director shall notify the presiding officer of the board of the  
 14-14 potential ground. The presiding officer shall then notify the  
 14-15 governor and the attorney general that a potential ground for  
 14-16 removal exists. If the potential ground for removal involves the  
 14-17 presiding officer, the executive director shall notify the next  
 14-18 highest ranking officer of the board, who shall then notify the  
 14-19 governor and the attorney general that a potential ground for  
 14-20 removal exists.

14-21 SECTION 2.005. Section 501.059, Occupations Code, is  
 14-22 amended by amending Subsection (b) and adding Subsection (d) to  
 14-23 read as follows:

14-24 (b) The training program must provide the person with  
 14-25 information regarding:

14-26 (1) the law governing board operations;  
 14-27 (2) [~~this chapter and~~] the programs, functions, rules,  
 14-28 and budget of the board;

14-29 (3) the scope of and limitations on the rulemaking  
 14-30 authority of the board;

14-31 (4) the types of board rules, interpretations, and  
 14-32 enforcement actions that may implicate federal antitrust law by  
 14-33 limiting competition or impacting prices charged by persons engaged  
 14-34 in a profession or business the board regulates, including any  
 14-35 rule, interpretation, or enforcement action that:

14-36 (A) regulates the scope of practice of persons in  
 14-37 a profession or business the board regulates;

14-38 (B) restricts advertising by persons in a  
 14-39 profession or business the board regulates;

14-40 (C) affects the price of goods or services  
 14-41 provided by persons in a profession or business the board  
 14-42 regulates; or

14-43 (D) restricts participation in a profession or  
 14-44 business the board regulates;

14-45 (5) [~~2~~] the results of the most recent formal audit  
 14-46 of the board;

14-47 (6) [~~3~~] the requirements of:

14-48 (A) laws relating to open meetings, public  
 14-49 information, administrative procedure, and disclosure of conflicts  
 14-50 of interest; and

14-51 (B) other laws applicable to members of the board  
 14-52 in performing their duties; and

14-53 (7) [~~4~~] any applicable ethics policies adopted by  
 14-54 the board or the Texas Ethics Commission.

14-55 (d) The executive director of the executive council shall  
 14-56 create a training manual that includes the information required by  
 14-57 Subsection (b). The executive director shall distribute a copy of  
 14-58 the training manual annually to each board member. Each member of  
 14-59 the board shall sign and submit to the executive director a  
 14-60 statement acknowledging that the member received and has reviewed  
 14-61 the training manual.

14-62 SECTION 2.006. The heading to Subchapter D, Chapter 501,  
 14-63 Occupations Code, is amended to read as follows:

14-64 SUBCHAPTER D. [BOARD] POWERS AND DUTIES

14-65 SECTION 2.007. The heading to Section 501.151, Occupations  
 14-66 Code, is amended to read as follows:

14-67 Sec. 501.151. GENERAL POWERS AND DUTIES OF EXECUTIVE  
 14-68 COUNCIL.

14-69 SECTION 2.008. Sections 501.151(c) and (d), Occupations

15-1 Code, are amended to read as follows:

15-2 (c) The executive council [board] shall adopt and publish a  
15-3 code of ethics under this chapter.

15-4 (d) The executive council [board] may certify the specialty  
15-5 of health service providers under this chapter.

15-6 SECTION 2.009. Subchapter D, Chapter 501, Occupations Code,  
15-7 is amended by adding Section 501.1515 to read as follows:

15-8 Sec. 501.1515. BOARD DUTIES. The board shall propose to the  
15-9 executive council:

15-10 (1) rules regarding:

15-11 (A) the qualifications necessary to obtain a  
15-12 license, including rules limiting an applicant's eligibility for a  
15-13 license based on the applicant's criminal history;

15-14 (B) the scope of practice of and standards of  
15-15 care and ethical practice for psychology; and

15-16 (C) continuing education requirements for  
15-17 license holders; and

15-18 (2) a schedule of sanctions for violations of this  
15-19 chapter or rules adopted under this chapter.

15-20 SECTION 2.010. Section 501.155, Occupations Code, is  
15-21 amended to read as follows:

15-22 Sec. 501.155. VOLUNTARY GUIDELINES. (a) The executive  
15-23 council [board] may cooperate with an agency that is not subject to  
15-24 this chapter to formulate voluntary guidelines to be observed in  
15-25 the training, activities, and supervision of persons who perform  
15-26 psychological services.

15-27 (b) Except as provided by Subsection (a), the executive  
15-28 council [board] may not adopt a rule that relates to the  
15-29 administration of an agency that is not subject to this chapter.

15-30 SECTION 2.011. Section 501.158, Occupations Code, is  
15-31 amended to read as follows:

15-32 Sec. 501.158. COMPETENCY REQUIREMENTS. (a) This section  
15-33 applies to a person who is:

15-34 (1) applying to take the [provisional] license  
15-35 examination;

15-36 (2) applying for a license or license renewal;

15-37 (3) currently licensed under this chapter [by the  
15-38 board]; or

15-39 (4) otherwise providing psychological services under  
15-40 a license approved by the executive council under this chapter  
15-41 [board].

15-42 (b) On a determination by the executive council [board]  
15-43 based on the executive council's [board's] reasonable belief that a  
15-44 person is not physically and mentally competent to provide  
15-45 psychological services with reasonable skill and safety to patients  
15-46 or has a physical or mental disease or condition that would impair  
15-47 the person's competency to provide psychological services, the  
15-48 executive council [board] may request the person to submit to:

15-49 (1) a physical examination by a physician approved by  
15-50 the executive council [board]; or

15-51 (2) a mental examination by a physician or  
15-52 psychologist approved by the executive council [board].

15-53 (c) The executive council [board] shall issue an order  
15-54 requiring a [an applicant or] person [seeking renewal of a  
15-55 provisional license] who refuses to submit to an examination under  
15-56 this section to show cause for the person's refusal at a hearing on  
15-57 the order scheduled for not later than the 30th day after the date  
15-58 notice is served on the person. The executive council [board] shall  
15-59 provide notice under this section by personal service or by  
15-60 registered mail, return receipt requested.

15-61 (d) At the hearing, the person may appear in person and by  
15-62 counsel and present evidence to justify the person's refusal to  
15-63 submit to examination. After the hearing, the executive council  
15-64 [board] shall issue an order requiring the person to submit to  
15-65 examination under this section or withdrawing the request for the  
15-66 examination.

15-67 (e) Unless the request is withdrawn, the executive council  
15-68 may take disciplinary action against a person who refuses to submit  
15-69 to the physical or mental examination [may not take the provisional

16-1 ~~license examination or renew the person's license, as appropriate].~~  
16-2 (f) An appeal from the executive council's [board's] order  
16-3 under this section is governed by Chapter 2001, Government Code.

16-4 SECTION 2.012. Section 501.252(a), Occupations Code, is  
16-5 amended to read as follows:

16-6 (a) To be licensed under this chapter, a person must apply  
16-7 to the executive council [board] for a license. The executive  
16-8 council [board] shall issue a license to an applicant who:

16-9 (1) is qualified for the license under Section  
16-10 501.2525 [complies with this section]; and

16-11 (2) pays the fee set by the executive council [board].

16-12 SECTION 2.013. Section 501.255, Occupations Code, is  
16-13 redesignated as Section 501.2525, Occupations Code, and amended to  
16-14 read as follows:

16-15 Sec. 501.2525 [501.255]. [PROVISIONAL] LICENSE  
16-16 [EXAMINATION] QUALIFICATIONS. (a) An applicant is qualified [may  
16-17 take an examination] for a [provisional] license under this chapter  
16-18 if the applicant:

16-19 (1) has received:

16-20 (A) a doctoral degree in psychology from a  
16-21 regionally accredited educational institution conferred on or  
16-22 after January 1, 1979; or

16-23 (B) a doctoral degree in psychology, or the  
16-24 substantial equivalent of a doctoral degree in psychology in both  
16-25 subject matter and extent of training, from a regionally accredited  
16-26 educational institution conferred before January 1, 1979;

16-27 (2) except as provided by Subsection (c) and Section  
16-28 501.253, has:

16-29 (A) at least two years of supervised experience  
16-30 in the field of psychological services, one year of which may be as  
16-31 part of the doctoral program and at least one year of which began  
16-32 after the date the person's doctoral degree was conferred by an  
16-33 institution of higher education; and

16-34 (B) passed any examination required by Section  
16-35 501.256;

16-36 (3) has attained the age of majority;

16-37 ~~[(3) has good moral character;]~~

16-38 (4) is physically and mentally competent to provide  
16-39 psychological services with reasonable skill and safety, as  
16-40 determined by the executive council [board];

16-41 (5) is not afflicted with a mental or physical disease  
16-42 or condition that would impair the applicant's competency to  
16-43 provide psychological services;

16-44 (6) has not been convicted of a crime involving moral  
16-45 turpitude or a felony;

16-46 (7) does not use drugs or alcohol to an extent that  
16-47 affects the applicant's professional competency;

16-48 (8) has not engaged in fraud or deceit in making the  
16-49 application; and

16-50 (9) except as provided by Section 501.263, has not:

16-51 (A) aided or abetted the practice of psychology  
16-52 by a person not licensed under this chapter in representing that the  
16-53 person is licensed under this chapter;

16-54 (B) represented that the applicant is licensed  
16-55 under this chapter to practice psychology when the applicant is not  
16-56 licensed; or

16-57 (C) practiced psychology in this state without a  
16-58 license under this chapter or without being exempt under this  
16-59 chapter.

16-60 (b) In determining under Subsection (a)(1)(B) whether a  
16-61 degree is substantially equivalent to a doctoral degree in  
16-62 psychology, the executive council [board] shall consider whether,  
16-63 at the time the degree was conferred, the doctoral program met the  
16-64 prevailing standards for training in the area of psychology,  
16-65 including standards for training in clinical, school, and  
16-66 industrial counseling.

16-67 (c) Subsection (a)(2)(A) does not apply to an applicant who:

16-68 (1) is licensed in good standing in another state to  
16-69 independently practice psychology; and



17-1                   (2) has independently practiced psychology in that  
 17-2 state for at least five years.

17-3                   (d) For purposes of Subsection (a)(2)(A), experience is  
 17-4 supervised only if the experience is supervised by a psychologist  
 17-5 in the manner provided by the executive council's supervision  
 17-6 guidelines. To determine the acceptability of an applicant's  
 17-7 experience, the executive council may require documentary evidence  
 17-8 of the quality, scope, and nature of the applicant's experience.  
 17-9 The executive council may count toward the supervised experience an  
 17-10 applicant is required to obtain after the applicant's degree is  
 17-11 conferred any hours of supervised experience the applicant  
 17-12 completed as part of a degree program accredited by the American  
 17-13 Psychological Association, the Canadian Psychological Association,  
 17-14 or a substantially equivalent degree program.

17-15                   SECTION 2.014. Section 501.253, Occupations Code, is  
 17-16 amended to read as follows:

17-17                   Sec. 501.253. PROVISIONAL STATUS FOR CERTAIN APPLICANTS  
 17-18 [LICENSE]. (a) The executive council may ~~board shall~~ issue a  
 17-19 ~~[provisional]~~ license with a provisional status to an applicant who  
 17-20 has not satisfied the experience or examination requirements of  
 17-21 Section 501.2525(a)(2) but is otherwise qualified for the license  
 17-22 under Section 501.2525 [+

17-23                   ~~[(1) passed the examinations prescribed by the board;~~  
 17-24                   ~~[(2) satisfied the preliminary requirements of~~  
 17-25 Sections 501.254 and 501.255; and

17-26                   ~~[(3) paid the fee for a provisional license].~~  
 17-27                   (b) A ~~[provisional]~~ license holder described by Subsection  
 17-28 (a) is entitled to practice psychology under the supervision of a  
 17-29 psychologist to meet the requirements for issuance of a license  
 17-30 under Section 501.2525, except that if the ~~[501.252. A~~  
 17-31 ~~provisional]~~ license holder ~~[who]~~ is licensed in another state to  
 17-32 independently practice psychology and is in good standing in that  
 17-33 state, the license holder ~~[and who seeks a license in this state]~~ is  
 17-34 entitled to practice psychology without the supervision of a  
 17-35 psychologist ~~[during the time that the board is processing the~~  
 17-36 ~~person's application for a license].~~

17-37                   (c) The executive council ~~board~~ shall adopt rules that  
 17-38 apply to a ~~[provisional]~~ license holder described by Subsection (a)  
 17-39 ~~[holders]~~ identifying:

17-40                   (1) the activities that the license holder ~~[holders]~~  
 17-41 may engage in; and

17-42                   (2) services that may be provided by the license  
 17-43 holder ~~[holders]~~.

17-44                   (d) The executive council ~~board~~ may refuse to renew a ~~[the~~  
 17-45 ~~provisional]~~ license issued under Subsection (a) if the license  
 17-46 holder ~~[of a person who]~~ does not meet the requirements prescribed  
 17-47 by Section 501.2525(a)(2) ~~[501.255]~~.

17-48                   (e) The executive council ~~board~~ may not restrict the  
 17-49 issuance of a license ~~[or provisional license]~~ to an applicant who  
 17-50 is licensed in another state to independently practice psychology  
 17-51 and is in good standing in that state based on the number of years  
 17-52 the applicant has been licensed in good standing in that state.

17-53                   ~~[(f) If an applicant who is licensed in another state to~~  
 17-54 ~~independently practice psychology and is in good standing in that~~  
 17-55 ~~state presents credentials from a national accreditation~~  
 17-56 ~~organization to the board and the board determines that the~~  
 17-57 ~~requirements for obtaining those credentials from that~~  
 17-58 ~~organization are sufficient to protect the public, the board may~~  
 17-59 ~~issue a provisional license to the applicant. An applicant who~~  
 17-60 ~~obtains a provisional license under this subsection must have~~  
 17-61 ~~passed the examination described by Section 501.256(b)(2).]~~

17-62                   SECTION 2.015. Section 501.256, Occupations Code, is  
 17-63 amended by amending Subsections (a), (b), (c), and (d) and adding  
 17-64 Subsection (b-1) to read as follows:

17-65                   (a) The executive council ~~board~~ shall administer to  
 17-66 qualified applicants at least annually any ~~[the oral and]~~ written  
 17-67 examination required by executive council ~~board~~ rules. An ~~[The~~  
 17-68 ~~board shall have the written portion of the]~~ examination must be  
 17-69 ~~[if any,]~~ validated by an independent testing professional.

18-1 (b) The board shall determine the subject and scope of each  
18-2 examination [~~the examinations and establish appropriate fees for~~  
18-3 ~~examinations administered~~]. The examination must test the  
18-4 applicant's knowledge of:

- 18-5 (1) the discipline and profession of psychology; and
- 18-6 (2) the laws and rules governing the profession of  
18-7 psychology in this state.

18-8 (b-1) The executive council shall establish appropriate  
18-9 fees for examinations administered under this chapter.

18-10 (c) The executive council [~~board~~] may waive the discipline  
18-11 and professional segment of the examination requirement for an  
18-12 applicant who:

18-13 (1) is a specialist of the American Board of  
18-14 Professional Psychology; or

18-15 (2) in the executive council's [~~board's~~] judgment, has  
18-16 demonstrated competence in the areas covered by the examination.

18-17 (d) The contents of the examination described by Subsection  
18-18 (b)(2) are the jurisprudence examination. The executive council  
18-19 [~~board~~] shall administer and each applicant must pass the  
18-20 jurisprudence examination before the executive council [~~board~~] may  
18-21 issue a [~~provisional~~] license.

18-22 SECTION 2.016. Section 501.259, Occupations Code, is  
18-23 amended to read as follows:

18-24 Sec. 501.259. LICENSING OF PSYCHOLOGICAL ASSOCIATE. (a)  
18-25 The executive council [~~board~~] shall set standards for the issuance  
18-26 of licenses to psychological personnel who hold a master's degree  
18-27 from an accredited university or college in a program that is  
18-28 primarily psychological in nature.

18-29 (b) The executive council [~~board~~] shall designate a person  
18-30 who holds a license authorized by this section by a title that  
18-31 includes the adjective "psychological" followed by a noun such as  
18-32 "associate," "assistant," "examiner," or "technician."

18-33 SECTION 2.017. Sections 501.260(a) and (b), Occupations  
18-34 Code, are amended to read as follows:

18-35 (a) The executive council [~~board~~] by rule shall issue a  
18-36 license to a licensed specialist in school psychology. A license  
18-37 issued under this section constitutes the appropriate credential  
18-38 for a person who provides psychological services as required by  
18-39 Section 21.003(b), Education Code.

18-40 (b) The executive council [~~board~~] shall set the standards to  
18-41 qualify for a license under this section. The standards must  
18-42 include:

18-43 (1) satisfaction of minimum recognized graduate  
18-44 degree requirements;

18-45 (2) completion of graduate course work at a regionally  
18-46 accredited institution of higher education in:

- 18-47 (A) psychological foundations;
- 18-48 (B) educational foundations;
- 18-49 (C) interventions;
- 18-50 (D) assessments; and
- 18-51 (E) professional issues and ethics;

18-52 (3) completion of at least 1,200 hours of supervised  
18-53 experience;

18-54 (4) receipt of a passing score on a nationally  
18-55 recognized qualifying examination determined to be appropriate by  
18-56 the executive council [~~board~~] and on any other examination required  
18-57 by the executive council [~~board~~]; and

18-58 (5) satisfaction of the requirements under Sections  
18-59 501.2525(a)(3)-(9) [~~, other than the degree requirements, for an~~  
18-60 ~~applicant to take an examination for a provisional license~~].

18-61 SECTION 2.018. Section 501.262, Occupations Code, is  
18-62 amended to read as follows:

18-63 Sec. 501.262. RECIPROCAL LICENSE. The executive council  
18-64 [~~board~~] may enter into and implement agreements with other  
18-65 jurisdictions for the issuance of a license by reciprocity if the  
18-66 other jurisdiction's requirements for licensing, certification, or  
18-67 registration are substantially equal to the requirements of this  
18-68 chapter.

18-69 SECTION 2.019. Sections 501.263(a), (b), (c), and (e),

19-1 Occupations Code, are amended to read as follows:

19-2 (a) The executive council [~~board~~] may issue a temporary  
19-3 license to an applicant seeking to practice in this state for a  
19-4 limited time and limited purpose if the applicant:

19-5 (1) pays the required application fee;

19-6 (2) submits an application to the executive council  
19-7 [~~board~~] in the form prescribed by the executive council [~~board~~];

19-8 (3) is licensed, certified, or registered as a  
19-9 psychologist or psychological associate by another state having  
19-10 requirements substantially equal to those prescribed by this  
19-11 chapter;

19-12 (4) is in good standing with the regulatory agency of  
19-13 the jurisdiction in which the person is licensed, certified, or  
19-14 registered;

19-15 (5) is supervised by a person licensed [~~by the board~~]  
19-16 under this chapter with whom the temporary license holder may  
19-17 consult during the time the person holds a temporary license; and

19-18 (6) has passed an examination recognized by the  
19-19 executive council [~~board~~] as equivalent to the examination required  
19-20 [~~by the board~~] for a permanent license under this chapter.

19-21 (b) A temporary license is valid only for the period  
19-22 specified by the executive council [~~board~~] and for the limited  
19-23 purpose approved by the executive council [~~board~~].

19-24 (c) The executive council [~~board~~] may adopt rules to issue a  
19-25 temporary license to a person who holds a license or the equivalent  
19-26 from another country.

19-27 (e) A person holding a temporary license issued under this  
19-28 chapter shall display a sign indicating that the license is  
19-29 temporary. The sign must be approved by the executive council  
19-30 [~~board~~] and displayed in every room in which the person provides  
19-31 psychological services.

19-32 SECTION 2.020. Section 501.264(a), Occupations Code, is  
19-33 amended to read as follows:

19-34 (a) A psychologist may place the psychologist's license on  
19-35 inactive status by applying to the executive council [~~board~~] and  
19-36 paying a fee established by the executive council [~~board~~].

19-37 SECTION 2.021. Section 501.301, Occupations Code, is  
19-38 amended to read as follows:

19-39 Sec. 501.301. LICENSE EXPIRATION AND RENEWAL. (a) The  
19-40 executive council shall adopt rules providing for the expiration  
19-41 and renewal of a [A] license issued under this chapter. The rules  
19-42 must require a license be renewed annually or biennially [expires  
19-43 on December 31 of the year following the date the license is issued  
19-44 or renewed. A license of a psychological associate expires on May  
19-45 31 of the year following the date the license is issued or renewed].

19-46 (b) The executive council [~~board~~] by rule may adopt a system  
19-47 under which licenses expire on various dates during the year. For a  
19-48 year in which the expiration date is changed, the executive council  
19-49 [~~board~~] shall prorate the licensing fee so that each license holder  
19-50 pays only the portion of the fee that is allocable to the number of  
19-51 months during which the license is valid. On renewal of the license  
19-52 on the new expiration date, the entire licensing fee is payable.

19-53 SECTION 2.022. Sections 501.351(a) and (c), Occupations  
19-54 Code, are amended to read as follows:

19-55 (a) A psychologist licensed under this chapter may delegate  
19-56 to a [~~provisionally licensed~~] psychologist who holds a license  
19-57 described by Section 501.253, a newly licensed psychologist who is  
19-58 not eligible for managed care panels, a person who holds a temporary  
19-59 license issued under Section 501.263, or a person enrolled in a  
19-60 formal internship as provided by executive council [~~board~~] rules [7  
19-61 and a person who satisfies Section 501.255(a) and is in the process  
19-62 of acquiring the supervised experience required by Section  
19-63 501.252(b)(2)] any psychological test or service that a reasonable  
19-64 and prudent psychologist could delegate within the scope of sound  
19-65 psychological judgment if the psychologist determines that:

19-66 (1) the test or service can be properly and safely  
19-67 performed by the person;

19-68 (2) the person does not represent to the public that  
19-69 the person is authorized to practice psychology; and

20-1 (3) the test or service will be performed in the  
20-2 customary manner and in compliance with any other law.

20-3 (c) The executive council [board] may determine whether:

20-4 (1) a psychological test or service may be properly  
20-5 and safely delegated under this section; and

20-6 (2) a delegated act constitutes the practice of  
20-7 psychology under this chapter.

20-8 SECTION 2.023. Section 501.401, Occupations Code, is  
20-9 amended to read as follows:

20-10 Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION. The  
20-11 executive council [board] shall take disciplinary action under  
20-12 Subchapter G, Chapter 507, against [revoke or suspend a holder's  
20-13 license, place on probation a person whose license has been  
20-14 suspended, or reprimand] a license holder who:

20-15 (1) violates this chapter or a rule adopted under this  
20-16 chapter [by the board];

20-17 (2) is convicted of a felony or of any offense that  
20-18 would be a felony under the laws of this state, or of a violation of  
20-19 a law involving moral turpitude;

20-20 (3) uses drugs or alcohol to an extent that affects the  
20-21 person's professional competency;

20-22 (4) engages in fraud or deceit in connection with  
20-23 services provided as a psychologist;

20-24 (5) except as provided by Section 501.263:

20-25 (A) aids or abets the practice of psychology by a  
20-26 person not licensed under this chapter in representing that the  
20-27 person is licensed under this chapter;

20-28 (B) represents that the person is licensed under  
20-29 this chapter to practice psychology when the person is not  
20-30 licensed; or

20-31 (C) practices psychology in this state without a  
20-32 license under this chapter or without being qualified for an  
20-33 exemption under Section 501.004; or

20-34 (6) commits an act for which liability exists under  
20-35 Chapter 81, Civil Practice and Remedies Code.

20-36 SECTION 2.024. Section 501.407, Occupations Code, is  
20-37 amended to read as follows:

20-38 Sec. 501.407. REMEDIAL CONTINUING EDUCATION. The executive  
20-39 council [board] may require a license holder who violates this  
20-40 chapter to participate in a continuing education program. The  
20-41 executive council [board] shall specify the continuing education  
20-42 program that the person may attend and the number of hours that the  
20-43 person must complete to fulfill the requirements of this section.

20-44 SECTION 2.025. Section 501.408, Occupations Code, is  
20-45 amended to read as follows:

20-46 Sec. 501.408. CORRECTIVE ADVERTISING. The executive  
20-47 council [board] may order corrective advertising if a psychologist,  
20-48 individually or under an assumed name, engages in false,  
20-49 misleading, or deceptive advertising.

20-50 SECTION 2.026. Subchapter I, Chapter 501, Occupations Code,  
20-51 is amended by adding Section 501.411 to read as follows:

20-52 Sec. 501.411. REMEDIAL PLAN. (a) The executive council may  
20-53 issue and establish the terms of a remedial plan to resolve the  
20-54 investigation of a complaint filed under this chapter.

20-55 (b) The executive council by rule shall establish the types  
20-56 of complaints or violations that may be resolved with a remedial  
20-57 plan. The rules must provide that a remedial plan may not be  
20-58 imposed to resolve a complaint:

20-59 (1) involving conduct that poses a significant risk of  
20-60 harm to a patient; or

20-61 (2) in which the appropriate resolution may involve  
20-62 revoking, suspending, limiting, or restricting a person's license.

20-63 (c) A remedial plan may not contain a provision that:

20-64 (1) revokes, suspends, limits, or restricts a person's  
20-65 license; or

20-66 (2) assesses an administrative penalty against a  
20-67 person.

20-68 (d) The executive council may not issue a remedial plan to  
20-69 resolve a complaint against a license holder if the license holder

21-1 has previously entered into a remedial plan with the executive  
 21-2 council for the resolution of a different complaint filed under  
 21-3 this chapter.

21-4 (e) The executive council may assess a fee against a license  
 21-5 holder participating in a remedial plan in an amount necessary to  
 21-6 recover the costs of administering the plan.

21-7 SECTION 2.027. Section 501.505, Occupations Code, is  
 21-8 amended to read as follows:

21-9 Sec. 501.505. OPTION TO ORDER REFUND. (a) Under an  
 21-10 agreement resulting from an informal settlement conference, the  
 21-11 executive council [board] may order a license holder to refund to  
 21-12 the person who paid for the psychological services at issue an  
 21-13 amount not to exceed the amount the person paid to the license  
 21-14 holder for a service regulated by this chapter instead of or in  
 21-15 addition to imposing an administrative penalty under Subchapter H,  
 21-16 Chapter 507 [this chapter].

21-17 (b) The executive council [board] may not include an  
 21-18 estimation of other damages or harm in a refund order.

21-19 SECTION 2.028. Chapter 501, Occupations Code, is amended by  
 21-20 adding Subchapter L to read as follows:

21-21 SUBCHAPTER L. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

21-22 Sec. 501.601. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. The  
 21-23 Psychology Interjurisdictional Compact is enacted and entered into  
 21-24 as follows:

21-25 PSYCHOLOGY INTERJURISDICTIONAL COMPACT

21-26 ARTICLE I. PURPOSE

21-27 Whereas, states license psychologists, in order to protect the  
 21-28 public through verification of education, training and experience  
 21-29 and ensure accountability for professional practice; and

21-30 Whereas, this Compact is intended to regulate the day to day  
 21-31 practice of telepsychology (i.e. the provision of psychological  
 21-32 services using telecommunication technologies) by psychologists  
 21-33 across state boundaries in the performance of their psychological  
 21-34 practice as assigned by an appropriate authority; and

21-35 Whereas, this Compact is intended to regulate the temporary  
 21-36 in-person, face-to-face practice of psychology by psychologists  
 21-37 across state boundaries for 30 days within a calendar year in the  
 21-38 performance of their psychological practice as assigned by an  
 21-39 appropriate authority;

21-40 Whereas, this Compact is intended to authorize State Psychology  
 21-41 Regulatory Authorities to afford legal recognition, in a manner  
 21-42 consistent with the terms of the Compact, to psychologists licensed  
 21-43 in another state;

21-44 Whereas, this Compact recognizes that states have a vested interest  
 21-45 in protecting the public's health and safety through their  
 21-46 licensing and regulation of psychologists and that such state  
 21-47 regulation will best protect public health and safety;

21-48 Whereas, this Compact does not apply when a psychologist is  
 21-49 licensed in both the Home and Receiving States; and

21-50 Whereas, this Compact does not apply to permanent in-person,  
 21-51 face-to-face practice, it does allow for authorization of temporary  
 21-52 psychological practice.

21-53 Consistent with these principles, this Compact is designed to  
 21-54 achieve the following purposes and objectives:

- 21-55 1. Increase public access to professional psychological  
 21-56 services by allowing for telepsychological practice  
 21-57 across state lines as well as temporary in-person,  
 21-58 face-to-face services into a state which the psychologist  
 21-59 is not licensed to practice psychology;
- 21-60 2. Enhance the states' ability to protect the public's health  
 21-61 and safety, especially client/patient safety;
- 21-62 3. Encourage the cooperation of Compact States in the areas of  
 21-63 psychology licensure and regulation;
- 21-64 4. Facilitate the exchange of information between Compact  
 21-65 States regarding psychologist licensure, adverse actions  
 21-66 and disciplinary history;
- 21-67 5. Promote compliance with the laws governing psychological  
 21-68 practice in each Compact State; and
- 21-69 6. Invest all Compact States with the authority to hold

22-1 licensed psychologists accountable through the mutual  
 22-2 recognition of Compact State licenses.

22-3 ARTICLE II. DEFINITIONS

- 22-4 A. "Adverse Action" means: Any action taken by a State Psychology  
 22-5 Regulatory Authority which finds a violation of a statute or  
 22-6 regulation that is identified by the State Psychology  
 22-7 Regulatory Authority as discipline and is a matter of public  
 22-8 record.
- 22-9 B. "Association of State and Provincial Psychology Boards  
 22-10 (ASPPB)" means: the recognized membership organization  
 22-11 composed of State and Provincial Psychology Regulatory  
 22-12 Authorities responsible for the licensure and registration of  
 22-13 psychologists throughout the United States and Canada.
- 22-14 C. "Authority to Practice Interjurisdictional Telepsychology"  
 22-15 means: a licensed psychologist's authority to practice  
 22-16 telepsychology, within the limits authorized under this  
 22-17 Compact, in another Compact State.
- 22-18 D. "Bylaws" means: those Bylaws established by the Psychology  
 22-19 Interjurisdictional Compact Commission pursuant to Section X  
 22-20 for its governance, or for directing and controlling its  
 22-21 actions and conduct.
- 22-22 E. "Client/Patient" means: the recipient of psychological  
 22-23 services, whether psychological services are delivered in the  
 22-24 context of healthcare, corporate, supervision, and/or  
 22-25 consulting services.
- 22-26 F. "Commissioner" means: the voting representative appointed by  
 22-27 each State Psychology Regulatory Authority pursuant to Section  
 22-28 X.
- 22-29 G. "Compact State" means: a state, the District of Columbia, or  
 22-30 United States territory that has enacted this Compact  
 22-31 legislation and which has not withdrawn pursuant to Article  
 22-32 XIII, Section C or been terminated pursuant to Article XII,  
 22-33 Section B.
- 22-34 H. "Coordinated Licensure Information System" also referred to as  
 22-35 "Coordinated Database" means: an integrated process for  
 22-36 collecting, storing, and sharing information on psychologists'  
 22-37 licensure and enforcement activities related to psychology  
 22-38 licensure laws, which is administered by the recognized  
 22-39 membership organization composed of State and Provincial  
 22-40 Psychology Regulatory Authorities.
- 22-41 I. "Confidentiality" means: the principle that data or  
 22-42 information is not made available or disclosed to unauthorized  
 22-43 persons and/or processes.
- 22-44 J. "Day" means: any part of a day in which psychological work is  
 22-45 performed.
- 22-46 K. "Distant State" means: the Compact State where a psychologist  
 22-47 is physically present (not through the use of  
 22-48 telecommunications technologies), to provide temporary  
 22-49 in-person, face-to-face psychological services.
- 22-50 L. "E.Passport" means: a certificate issued by the Association of  
 22-51 State and Provincial Psychology Boards (ASPPB) that promotes  
 22-52 the standardization in the criteria of interjurisdictional  
 22-53 telepsychology practice and facilitates the process for  
 22-54 licensed psychologists to provide telepsychological services  
 22-55 across state lines.
- 22-56 M. "Executive Board" means: a group of directors elected or  
 22-57 appointed to act on behalf of, and within the powers granted to  
 22-58 them by, the Commission.
- 22-59 N. "Home State" means: a Compact State where a psychologist is  
 22-60 licensed to practice psychology. If the psychologist is  
 22-61 licensed in more than one Compact State and is practicing under  
 22-62 the Authorization to Practice Interjurisdictional  
 22-63 Telepsychology, the Home State is the Compact State where the  
 22-64 psychologist is physically present when the telepsychological  
 22-65 services are delivered. If the psychologist is licensed in more  
 22-66 than one Compact State and is practicing under the Temporary  
 22-67 Authorization to Practice, the Home State is any Compact State  
 22-68 where the psychologist is licensed.
- 22-69 O. "Identity History Summary" means: a summary of information

- 23-1 retained by the FBI, or other designee with similar authority,  
 23-2 in connection with arrests and, in some instances, federal  
 23-3 employment, naturalization, or military service.
- 23-4 P. "In-Person, Face-to-Face" means: interactions in which the  
 23-5 psychologist and the client/patient are in the same physical  
 23-6 space and which does not include interactions that may occur  
 23-7 through the use of telecommunication technologies.
- 23-8 Q. "Interjurisdictional Practice Certificate (IPC)" means: a  
 23-9 certificate issued by the Association of State and Provincial  
 23-10 Psychology Boards (ASPPB) that grants temporary authority to  
 23-11 practice based on notification to the State Psychology  
 23-12 Regulatory Authority of intention to practice temporarily, and  
 23-13 verification of one's qualifications for such practice.
- 23-14 R. "License" means: authorization by a State Psychology  
 23-15 Regulatory Authority to engage in the independent practice of  
 23-16 psychology, which would be unlawful without the authorization.
- 23-17 S. "Non-Compact State" means: any State which is not at the time a  
 23-18 Compact State.
- 23-19 T. "Psychologist" means: an individual licensed for the  
 23-20 independent practice of psychology.
- 23-21 U. "Psychology Interjurisdictional Compact Commission" also  
 23-22 referred to as "Commission" means: the national administration  
 23-23 of which all Compact States are members.
- 23-24 V. "Receiving State" means: a Compact State where the  
 23-25 client/patient is physically located when the  
 23-26 telepsychological services are delivered.
- 23-27 W. "Rule" means: a written statement by the Psychology  
 23-28 Interjurisdictional Compact Commission promulgated pursuant  
 23-29 to Section XI of the Compact that is of general applicability,  
 23-30 implements, interprets, or prescribes a policy or provision of  
 23-31 the Compact, or an organizational, procedural, or practice  
 23-32 requirement of the Commission and has the force and effect of  
 23-33 statutory law in a Compact State, and includes the amendment,  
 23-34 repeal or suspension of an existing rule.
- 23-35 X. "Significant Investigatory Information" means:  
 23-36 1. investigative information that a State Psychology  
 23-37 Regulatory Authority, after a preliminary inquiry that  
 23-38 includes notification and an opportunity to respond if  
 23-39 required by state law, has reason to believe, if proven  
 23-40 true, would indicate more than a violation of state  
 23-41 statute or ethics code that would be considered more  
 23-42 substantial than minor infraction; or  
 23-43 2. investigative information that indicates that the  
 23-44 psychologist represents an immediate threat to public  
 23-45 health and safety regardless of whether the psychologist  
 23-46 has been notified and/or had an opportunity to respond.
- 23-47 Y. "State" means: a state, commonwealth, territory, or possession  
 23-48 of the United States, the District of Columbia.
- 23-49 Z. "State Psychology Regulatory Authority" means: the Board,  
 23-50 office or other agency with the legislative mandate to license  
 23-51 and regulate the practice of psychology.
- 23-52 AA. "Telepsychology" means: the provision of psychological  
 23-53 services using telecommunication technologies.
- 23-54 BB. "Temporary Authorization to Practice" means: a licensed  
 23-55 psychologist's authority to conduct temporary in-person,  
 23-56 face-to-face practice, within the limits authorized under this  
 23-57 Compact, in another Compact State.
- 23-58 CC. "Temporary In-Person, Face-to-Face Practice" means: where a  
 23-59 psychologist is physically present (not through the use of  
 23-60 telecommunications technologies), in the Distant State to  
 23-61 provide for the practice of psychology for 30 days within a  
 23-62 calendar year and based on notification to the Distant State.
- 23-63 ARTICLE III. HOME STATE LICENSURE
- 23-64 A. The Home State shall be a Compact State where a psychologist is  
 23-65 licensed to practice psychology.
- 23-66 B. A psychologist may hold one or more Compact State licenses at a  
 23-67 time. If the psychologist is licensed in more than one Compact  
 23-68 State, the Home State is the Compact State where the  
 23-69 psychologist is physically present when the services are

- 24-1 delivered as authorized by the Authority to Practice  
 24-2 Interjurisdictional Telepsychology under the terms of this  
 24-3 Compact.
- 24-4 C. Any Compact State may require a psychologist not previously  
 24-5 licensed in a Compact State to obtain and retain a license to be  
 24-6 authorized to practice in the Compact State under  
 24-7 circumstances not authorized by the Authority to Practice  
 24-8 Interjurisdictional Telepsychology under the terms of this  
 24-9 Compact.
- 24-10 D. Any Compact State may require a psychologist to obtain and  
 24-11 retain a license to be authorized to practice in a Compact  
 24-12 State under circumstances not authorized by Temporary  
 24-13 Authorization to Practice under the terms of this Compact.
- 24-14 E. A Home State's license authorizes a psychologist to practice in  
 24-15 a Receiving State under the Authority to Practice  
 24-16 Interjurisdictional Telepsychology only if the Compact State:
- 24-17 1. Currently requires the psychologist to hold an active  
 24-18 E.Passport;
  - 24-19 2. Has a mechanism in place for receiving and investigating  
 24-20 complaints about licensed individuals;
  - 24-21 3. Notifies the Commission, in compliance with the terms  
 24-22 herein, of any adverse action or significant investigatory  
 24-23 information regarding a licensed individual;
  - 24-24 4. Requires an Identity History Summary of all applicants at  
 24-25 initial licensure, including the use of the results of  
 24-26 fingerprints or other biometric data checks compliant with  
 24-27 the requirements of the Federal Bureau of Investigation  
 24-28 FBI, or other designee with similar authority, no later  
 24-29 than ten years after activation of the Compact; and
  - 24-30 5. Complies with the Bylaws and Rules of the Commission.
- 24-31 F. A Home State's license grants Temporary Authorization to  
 24-32 Practice to a psychologist in a Distant State only if the  
 24-33 Compact State:
- 24-34 1. Currently requires the psychologist to hold an active IPC;
  - 24-35 2. Has a mechanism in place for receiving and investigating  
 24-36 complaints about licensed individuals;
  - 24-37 3. Notifies the Commission, in compliance with the terms  
 24-38 herein, of any adverse action or significant investigatory  
 24-39 information regarding a licensed individual;
  - 24-40 4. Requires an Identity History Summary of all applicants at  
 24-41 initial licensure, including the use of the results of  
 24-42 fingerprints or other biometric data checks compliant with  
 24-43 the requirements of the Federal Bureau of Investigation  
 24-44 FBI, or other designee with similar authority, no later  
 24-45 than ten years after activation of the Compact; and
  - 24-46 5. Complies with the Bylaws and Rules of the Commission.
- 24-47 ARTICLE IV. COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY
- 24-48 A. Compact States shall recognize the right of a psychologist,  
 24-49 licensed in a Compact State in conformance with Article III, to  
 24-50 practice telepsychology in other Compact States (Receiving  
 24-51 States) in which the psychologist is not licensed, under the  
 24-52 Authority to Practice Interjurisdictional Telepsychology as  
 24-53 provided in the Compact.
- 24-54 B. To exercise the Authority to Practice Interjurisdictional  
 24-55 Telepsychology under the terms and provisions of this Compact,  
 24-56 a psychologist licensed to practice in a Compact State must:
- 24-57 1. Hold a graduate degree in psychology from an institute of  
 24-58 higher education that was, at the time the degree was  
 24-59 awarded:
    - 24-60 a. Regionally accredited by an accrediting body  
 24-61 recognized by the U.S. Department of Education to  
 24-62 grant graduate degrees, OR authorized by Provincial  
 24-63 Statute or Royal Charter to grant doctoral degrees; OR
    - 24-64 b. A foreign college or university deemed to be  
 24-65 equivalent to 1 (a) above by a foreign credential  
 24-66 evaluation service that is a member of the National  
 24-67 Association of Credential Evaluation Services (NACES)  
 24-68 or by a recognized foreign credential evaluation  
 24-69 service; AND



- 25-1 2. Hold a graduate degree in psychology that meets the  
 25-2 following criteria:  
 25-3 a. The program, wherever it may be administratively  
 25-4 housed, must be clearly identified and labeled as a  
 25-5 psychology program. Such a program must specify in  
 25-6 pertinent institutional catalogues and brochures its  
 25-7 intent to educate and train professional  
 25-8 psychologists;  
 25-9 b. The psychology program must stand as a recognizable,  
 25-10 coherent, organizational entity within the  
 25-11 institution;  
 25-12 c. There must be a clear authority and primary  
 25-13 responsibility for the core and specialty areas  
 25-14 whether or not the program cuts across administrative  
 25-15 lines;  
 25-16 d. The program must consist of an integrated, organized  
 25-17 sequence of study;  
 25-18 e. There must be an identifiable psychology faculty  
 25-19 sufficient in size and breadth to carry out its  
 25-20 responsibilities;  
 25-21 f. The designated director of the program must be a  
 25-22 psychologist and a member of the core faculty;  
 25-23 g. The program must have an identifiable body of students  
 25-24 who are matriculated in that program for a degree;  
 25-25 h. The program must include supervised practicum,  
 25-26 internship, or field training appropriate to the  
 25-27 practice of psychology;  
 25-28 i. The curriculum shall encompass a minimum of three  
 25-29 academic years of full-time graduate study for  
 25-30 doctoral degree and a minimum of one academic year of  
 25-31 full-time graduate study for master's degree;  
 25-32 j. The program includes an acceptable residency as  
 25-33 defined by the Rules of the Commission.  
 25-34 3. Possess a current, full and unrestricted license to  
 25-35 practice psychology in a Home State which is a Compact  
 25-36 State;  
 25-37 4. Have no history of adverse action that violate the Rules of  
 25-38 the Commission;  
 25-39 5. Have no criminal record history reported on an Identity  
 25-40 History Summary that violates the Rules of the Commission;  
 25-41 6. Possess a current, active E.Passport;  
 25-42 7. Provide attestations in regard to areas of intended  
 25-43 practice, conformity with standards of practice,  
 25-44 competence in telepsychology technology; criminal  
 25-45 background; and knowledge and adherence to legal  
 25-46 requirements in the home and receiving states, and provide  
 25-47 a release of information to allow for primary source  
 25-48 verification in a manner specified by the Commission; and  
 25-49 8. Meet other criteria as defined by the Rules of the  
 25-50 Commission.  
 25-51 C. The Home State maintains authority over the license of any  
 25-52 psychologist practicing into a Receiving State under the  
 25-53 Authority to Practice Interjurisdictional Telepsychology.  
 25-54 D. A psychologist practicing into a Receiving State under the  
 25-55 Authority to Practice Interjurisdictional Telepsychology will  
 25-56 be subject to the Receiving State's scope of practice. A  
 25-57 Receiving State may, in accordance with that state's due  
 25-58 process law, limit or revoke a psychologist's Authority to  
 25-59 Practice Interjurisdictional Telepsychology in the Receiving  
 25-60 State and may take any other necessary actions under the  
 25-61 Receiving State's applicable law to protect the health and  
 25-62 safety of the Receiving State's citizens. If a Receiving State  
 25-63 takes action, the state shall promptly notify the Home State  
 25-64 and the Commission.  
 25-65 E. If a psychologist's license in any Home State, another Compact  
 25-66 State, or any Authority to Practice Interjurisdictional  
 25-67 Telepsychology in any Receiving State, is restricted,  
 25-68 suspended or otherwise limited, the E.Passport shall be  
 25-69 revoked and therefore the psychologist shall not be eligible to

26-1 practice telepsychology in a Compact State under the Authority  
26-2 to Practice Interjurisdictional Telepsychology.

26-3 ARTICLE V. COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

26-4 A. Compact States shall also recognize the right of a  
26-5 psychologist, licensed in a Compact State in conformance with  
26-6 Article III, to practice temporarily in other Compact States  
26-7 (Distant States) in which the psychologist is not licensed, as  
26-8 provided in the Compact.

26-9 B. To exercise the Temporary Authorization to Practice under the  
26-10 terms and provisions of this Compact, a psychologist licensed  
26-11 to practice in a Compact State must:

26-12 1. Hold a graduate degree in psychology from an institute of  
26-13 higher education that was, at the time the degree was  
26-14 awarded:

26-15 a. Regionally accredited by an accrediting body  
26-16 recognized by the U.S. Department of Education to  
26-17 grant graduate degrees, OR authorized by Provincial  
26-18 Statute or Royal Charter to grant doctoral degrees; OR

26-19 b. A foreign college or university deemed to be  
26-20 equivalent to 1 (a) above by a foreign credential  
26-21 evaluation service that is a member of the National  
26-22 Association of Credential Evaluation Services (NACES)  
26-23 or by a recognized foreign credential evaluation  
26-24 service; AND

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

26-27 a. The program, wherever it may be administratively  
26-28 housed, must be clearly identified and labeled as a  
26-29 psychology program. Such a program must specify in  
26-30 pertinent institutional catalogues and brochures its  
26-31 intent to educate and train professional  
26-32 psychologists;

26-33 b. The psychology program must stand as a recognizable,  
26-34 coherent, organizational entity within the  
26-35 institution;

26-36 c. There must be a clear authority and primary  
26-37 responsibility for the core and specialty areas  
26-38 whether or not the program cuts across administrative  
26-39 lines;

26-40 d. The program must consist of an integrated, organized  
26-41 sequence of study;

26-42 e. There must be an identifiable psychology faculty  
26-43 sufficient in size and breadth to carry out its  
26-44 responsibilities;

26-45 f. The designated director of the program must be a  
26-46 psychologist and a member of the core faculty;

26-47 g. The program must have an identifiable body of students  
26-48 who are matriculated in that program for a degree;

26-49 h. The program must include supervised practicum,  
26-50 internship, or field training appropriate to the  
26-51 practice of psychology;

26-52 i. The curriculum shall encompass a minimum of three  
26-53 academic years of full-time graduate study for  
26-54 doctoral degrees and a minimum of one academic year of  
26-55 full-time graduate study for master's degree;

26-56 j. The program includes an acceptable residency as  
26-57 defined by the Rules of the Commission.

26-58 3. Possess a current, full and unrestricted license to  
26-59 practice psychology in a Home State which is a Compact  
26-60 State;

26-61 4. No history of adverse action that violate the Rules of the  
26-62 Commission;

26-63 5. No criminal record history that violates the Rules of the  
26-64 Commission;

26-65 6. Possess a current, active IPC;

26-66 7. Provide attestations in regard to areas of intended  
26-67 practice and work experience and provide a release of  
26-68 information to allow for primary source verification in a  
26-69 manner specified by the Commission; and

- 27-1 8. Meet other criteria as defined by the Rules of the
- 27-2 Commission.
- 27-3 C. A psychologist practicing into a Distant State under the
- 27-4 Temporary Authorization to Practice shall practice within the
- 27-5 scope of practice authorized by the Distant State.
- 27-6 D. A psychologist practicing into a Distant State under the
- 27-7 Temporary Authorization to Practice will be subject to the
- 27-8 Distant State's authority and law. A Distant State may, in
- 27-9 accordance with that state's due process law, limit or revoke a
- 27-10 psychologist's Temporary Authorization to Practice in the
- 27-11 Distant State and may take any other necessary actions under
- 27-12 the Distant State's applicable law to protect the health and
- 27-13 safety of the Distant State's citizens. If a Distant State
- 27-14 takes action, the state shall promptly notify the Home State
- 27-15 and the Commission.
- 27-16 E. If a psychologist's license in any Home State, another Compact
- 27-17 State, or any Temporary Authorization to Practice in any
- 27-18 Distant State, is restricted, suspended or otherwise limited,
- 27-19 the IPC shall be revoked and therefore the psychologist shall
- 27-20 not be eligible to practice in a Compact State under the
- 27-21 Temporary Authorization to Practice.

ARTICLE VI. CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

- 27-24 A. A psychologist may practice in a Receiving State under the
- 27-25 Authority to Practice Interjurisdictional Telepsychology only
- 27-26 in the performance of the scope of practice for psychology as
- 27-27 assigned by an appropriate State Psychology Regulatory
- 27-28 Authority, as defined in the Rules of the Commission, and under
- 27-29 the following circumstances:
- 27-30 1. The psychologist initiates a client/patient contact in a
- 27-31 Home State via telecommunications technologies with a
- 27-32 client/patient in a Receiving State;
- 27-33 2. Other conditions regarding telepsychology as determined by
- 27-34 Rules promulgated by the Commission.

ARTICLE VII. ADVERSE ACTIONS

- 27-36 A. A Home State shall have the power to impose adverse action
- 27-37 against a psychologist's license issued by the Home State. A
- 27-38 Distant State shall have the power to take adverse action on a
- 27-39 psychologist's Temporary Authorization to Practice within that
- 27-40 Distant State.
- 27-41 B. A Receiving State may take adverse action on a psychologist's
- 27-42 Authority to Practice Interjurisdictional Telepsychology
- 27-43 within that Receiving State. A Home State may take adverse
- 27-44 action against a psychologist based on an adverse action taken
- 27-45 by a Distant State regarding temporary in-person, face-to-face
- 27-46 practice.
- 27-47 C. If a Home State takes adverse action against a psychologist's
- 27-48 license, that psychologist's Authority to Practice
- 27-49 Interjurisdictional Telepsychology is terminated and the
- 27-50 E.Passport is revoked. Furthermore, that psychologist's
- 27-51 Temporary Authorization to Practice is terminated and the IPC
- 27-52 is revoked.
- 27-53 1. All Home State disciplinary orders which impose adverse
- 27-54 action shall be reported to the Commission in accordance
- 27-55 with the Rules promulgated by the Commission. A Compact
- 27-56 State shall report adverse actions in accordance with the
- 27-57 Rules of the Commission.
- 27-58 2. In the event discipline is reported on a psychologist, the
- 27-59 psychologist will not be eligible for telepsychology or
- 27-60 temporary in-person, face-to-face practice in accordance
- 27-61 with the Rules of the Commission.
- 27-62 3. Other actions may be imposed as determined by the Rules
- 27-63 promulgated by the Commission.
- 27-64 D. A Home State's Psychology Regulatory Authority shall
- 27-65 investigate and take appropriate action with respect to
- 27-66 reported inappropriate conduct engaged in by a licensee which
- 27-67 occurred in a Receiving State as it would if such conduct had
- 27-68 occurred by a licensee within the Home State. In such cases,
- 27-69 the Home State's law shall control in determining any adverse

28-1 action against a psychologist's license.  
 28-2 E. A Distant State's Psychology Regulatory Authority shall  
 28-3 investigate and take appropriate action with respect to  
 28-4 reported inappropriate conduct engaged in by a psychologist  
 28-5 practicing under Temporary Authorization Practice which  
 28-6 occurred in that Distant State as it would if such conduct had  
 28-7 occurred by a licensee within the Home State. In such cases,  
 28-8 Distant State's law shall control in determining any adverse  
 28-9 action against a psychologist's Temporary Authorization to  
 28-10 Practice.

28-11 F. Nothing in this Compact shall override a Compact State's  
 28-12 decision that a psychologist's participation in an alternative  
 28-13 program may be used in lieu of adverse action and that such  
 28-14 participation shall remain non-public if required by the  
 28-15 Compact State's law. Compact States must require psychologists  
 28-16 who enter any alternative programs to not provide  
 28-17 telepsychology services under the Authority to Practice  
 28-18 Interjurisdictional Telepsychology or provide temporary  
 28-19 psychological services under the Temporary Authorization to  
 28-20 Practice in any other Compact State during the term of the  
 28-21 alternative program.

28-22 G. No other judicial or administrative remedies shall be available  
 28-23 to a psychologist in the event a Compact State imposes an  
 28-24 adverse action pursuant to subsection C, above.

28-25 ARTICLE VIII. ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S  
 28-26 PSYCHOLOGY REGULATORY AUTHORITY

28-27 A. In addition to any other powers granted under state law, a  
 28-28 Compact State's Psychology Regulatory Authority shall have the  
 28-29 authority under this Compact to:

- 28-30 1. Issue subpoenas, for both hearings and investigations,  
 28-31 which require the attendance and testimony of witnesses  
 28-32 and the production of evidence. Subpoenas issued by a  
 28-33 Compact State's Psychology Regulatory Authority for the  
 28-34 attendance and testimony of witnesses, and/or the  
 28-35 production of evidence from another Compact State shall be  
 28-36 enforced in the latter state by any court of competent  
 28-37 jurisdiction, according to that court's practice and  
 28-38 procedure in considering subpoenas issued in its own  
 28-39 proceedings. The issuing State Psychology Regulatory  
 28-40 Authority shall pay any witness fees, travel expenses,  
 28-41 mileage and other fees required by the service statutes of  
 28-42 the state where the witnesses and/or evidence are located;  
 28-43 and
- 28-44 2. Issue cease and desist and/or injunctive relief orders to  
 28-45 revoke a psychologist's Authority to Practice  
 28-46 Interjurisdictional Telepsychology and/or Temporary  
 28-47 Authorization to Practice.
- 28-48 3. During the course of any investigation, a psychologist may  
 28-49 not change his/her Home State licensure. A Home State  
 28-50 Psychology Regulatory Authority is authorized to complete  
 28-51 any pending investigations of a psychologist and to take  
 28-52 any actions appropriate under its law. The Home State  
 28-53 Psychology Regulatory Authority shall promptly report the  
 28-54 conclusions of such investigations to the Commission. Once  
 28-55 an investigation has been completed, and pending the  
 28-56 outcome of said investigation, the psychologist may change  
 28-57 his/her Home State licensure. The Commission shall  
 28-58 promptly notify the new Home State of any such decisions as  
 28-59 provided in the Rules of the Commission. All information  
 28-60 provided to the Commission or distributed by Compact  
 28-61 States pursuant to the psychologist shall be confidential,  
 28-62 filed under seal and used for investigatory or  
 28-63 disciplinary matters. The Commission may create  
 28-64 additional rules for mandated or discretionary sharing of  
 28-65 information by Compact States.

28-66 ARTICLE IX. COORDINATED LICENSURE INFORMATION SYSTEM

28-67 A. The Commission shall provide for the development and  
 28-68 maintenance of a Coordinated Licensure Information System  
 28-69 (Coordinated Database) and reporting system containing

29-1 licensure and disciplinary action information on all  
 29-2 psychologists individuals to whom this Compact is applicable  
 29-3 in all Compact States as defined by the Rules of the  
 29-4 Commission.

29-5 B. Notwithstanding any other provision of state law to the  
 29-6 contrary, a Compact State shall submit a uniform data set to  
 29-7 the Coordinated Database on all licensees as required by the  
 29-8 Rules of the Commission, including:

- 29-9 1. Identifying information;
- 29-10 2. Licensure data;
- 29-11 3. Significant investigatory information;
- 29-12 4. Adverse actions against a psychologist's license;
- 29-13 5. An indicator that a psychologist's Authority to Practice  
 29-14 Interjurisdictional Telepsychology and/or Temporary  
 29-15 Authorization to Practice is revoked;
- 29-16 6. Non-confidential information related to alternative  
 29-17 program participation information;
- 29-18 7. Any denial of application for licensure, and the reasons  
 29-19 for such denial; and
- 29-20 8. Other information which may facilitate the administration  
 29-21 of this Compact, as determined by the Rules of the  
 29-22 Commission.

29-23 C. The Coordinated Database administrator shall promptly notify  
 29-24 all Compact States of any adverse action taken against, or  
 29-25 significant investigative information on, any licensee in a  
 29-26 Compact State.

29-27 D. Compact States reporting information to the Coordinated  
 29-28 Database may designate information that may not be shared with  
 29-29 the public without the express permission of the Compact State  
 29-30 reporting the information.

29-31 E. Any information submitted to the Coordinated Database that is  
 29-32 subsequently required to be expunged by the law of the Compact  
 29-33 State reporting the information shall be removed from the  
 29-34 Coordinated Database.

29-35 ARTICLE X. ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL  
 29-36 COMPACT COMMISSION

29-37 A. The Compact States hereby create and establish a joint public  
 29-38 agency known as the Psychology Interjurisdictional Compact  
 29-39 Commission.

- 29-40 1. The Commission is a body politic and an instrumentality of  
 29-41 the Compact States.
- 29-42 2. Venue is proper and judicial proceedings by or against the  
 29-43 Commission shall be brought solely and exclusively in a  
 29-44 court of competent jurisdiction where the principal office  
 29-45 of the Commission is located. The Commission may waive  
 29-46 venue and jurisdictional defenses to the extent it adopts  
 29-47 or consents to participate in alternative dispute  
 29-48 resolution proceedings.
- 29-49 3. Nothing in this Compact shall be construed to be a waiver  
 29-50 of sovereign immunity.

29-51 B. Membership, Voting, and Meetings

- 29-52 1. The Commission shall consist of one voting representative  
 29-53 appointed by each Compact State who shall serve as that  
 29-54 state's Commissioner. The State Psychology Regulatory  
 29-55 Authority shall appoint its delegate. This delegate shall  
 29-56 be empowered to act on behalf of the Compact State. This  
 29-57 delegate shall be limited to:
  - 29-58 a. Executive Director, Executive Secretary or similar  
 29-59 executive;
  - 29-60 b. Current member of the State Psychology Regulatory  
 29-61 Authority of a Compact State; OR
  - 29-62 c. Designee empowered with the appropriate delegate  
 29-63 authority to act on behalf of the Compact State.
- 29-64 2. Any Commissioner may be removed or suspended from office as  
 29-65 provided by the law of the state from which the  
 29-66 Commissioner is appointed. Any vacancy occurring in the  
 29-67 Commission shall be filled in accordance with the laws of  
 29-68 the Compact State in which the vacancy exists.
- 29-69 3. Each Commissioner shall be entitled to one (1) vote with

- 30-1 regard to the promulgation of Rules and creation of Bylaws  
 30-2 and shall otherwise have an opportunity to participate in  
 30-3 the business and affairs of the Commission. A Commissioner  
 30-4 shall vote in person or by such other means as provided in  
 30-5 the Bylaws. The Bylaws may provide for Commissioners'  
 30-6 participation in meetings by telephone or other means of  
 30-7 communication.
- 30-8 4. The Commission shall meet at least once during each  
 30-9 calendar year. Additional meetings shall be held as set  
 30-10 forth in the Bylaws.
- 30-11 5. All meetings shall be open to the public, and public notice  
 30-12 of meetings shall be given in the same manner as required  
 30-13 under the rulemaking provisions in Article XI.
- 30-14 6. The Commission may convene in a closed, non-public meeting  
 30-15 if the Commission must discuss:
- 30-16 a. Non-compliance of a Compact State with its obligations  
 30-17 under the Compact;
- 30-18 b. The employment, compensation, discipline or other  
 30-19 personnel matters, practices or procedures related to  
 30-20 specific employees or other matters related to the  
 30-21 Commission's internal personnel practices and  
 30-22 procedures;
- 30-23 c. Current, threatened, or reasonably anticipated  
 30-24 litigation against the Commission;
- 30-25 d. Negotiation of contracts for the purchase or sale of  
 30-26 goods, services or real estate;
- 30-27 e. Accusation against any person of a crime or formally  
 30-28 censuring any person;
- 30-29 f. Disclosure of trade secrets or commercial or financial  
 30-30 information which is privileged or confidential;
- 30-31 g. Disclosure of information of a personal nature where  
 30-32 disclosure would constitute a clearly unwarranted  
 30-33 invasion of personal privacy;
- 30-34 h. Disclosure of investigatory records compiled for law  
 30-35 enforcement purposes;
- 30-36 i. Disclosure of information related to any  
 30-37 investigatory reports prepared by or on behalf of or  
 30-38 for use of the Commission or other committee charged  
 30-39 with responsibility for investigation or  
 30-40 determination of compliance issues pursuant to the  
 30-41 Compact; or
- 30-42 j. Matters specifically exempted from disclosure by  
 30-43 federal and state statute.
- 30-44 7. If a meeting, or portion of a meeting, is closed pursuant  
 30-45 to this provision, the Commission's legal counsel or  
 30-46 designee shall certify that the meeting may be closed and  
 30-47 shall reference each relevant exempting provision. The  
 30-48 Commission shall keep minutes which fully and clearly  
 30-49 describe all matters discussed in a meeting and shall  
 30-50 provide a full and accurate summary of actions taken, of  
 30-51 any person participating in the meeting, and the reasons  
 30-52 therefore, including a description of the views expressed.  
 30-53 All documents considered in connection with an action  
 30-54 shall be identified in such minutes. All minutes and  
 30-55 documents of a closed meeting shall remain under seal,  
 30-56 subject to release only by a majority vote of the  
 30-57 Commission or order of a court of competent jurisdiction.
- 30-58 C. The Commission shall, by a majority vote of the Commissioners,  
 30-59 prescribe Bylaws and/or Rules to govern its conduct as may be  
 30-60 necessary or appropriate to carry out the purposes and exercise  
 30-61 the powers of the Compact, including but not limited to:
- 30-62 1. Establishing the fiscal year of the Commission;
- 30-63 2. Providing reasonable standards and procedures:
- 30-64 a. for the establishment and meetings of other  
 30-65 committees; and
- 30-66 b. governing any general or specific delegation of any  
 30-67 authority or function of the Commission;
- 30-68 3. Providing reasonable procedures for calling and conducting  
 30-69 meetings of the Commission, ensuring reasonable advance

- 31-1 notice of all meetings and providing an opportunity for  
 31-2 attendance of such meetings by interested parties, with  
 31-3 enumerated exceptions designed to protect the public's  
 31-4 interest, the privacy of individuals of such proceedings,  
 31-5 and proprietary information, including trade secrets. The  
 31-6 Commission may meet in closed session only after a  
 31-7 majority of the Commissioners vote to close a meeting to  
 31-8 the public in whole or in part. As soon as practicable, the  
 31-9 Commission must make public a copy of the vote to close the  
 31-10 meeting revealing the vote of each Commissioner with no  
 31-11 proxy votes allowed;  
 31-12 4. Establishing the titles, duties and authority and  
 31-13 reasonable procedures for the election of the officers of  
 31-14 the Commission;  
 31-15 5. Providing reasonable standards and procedures for the  
 31-16 establishment of the personnel policies and programs of  
 31-17 the Commission. Notwithstanding any civil service or other  
 31-18 similar law of any Compact State, the Bylaws shall  
 31-19 exclusively govern the personnel policies and programs of  
 31-20 the Commission;  
 31-21 6. Promulgating a Code of Ethics to address permissible and  
 31-22 prohibited activities of Commission members and  
 31-23 employees;  
 31-24 7. Providing a mechanism for concluding the operations of the  
 31-25 Commission and the equitable disposition of any surplus  
 31-26 funds that may exist after the termination of the Compact  
 31-27 after the payment and/or reserving of all of its debts and  
 31-28 obligations;  
 31-29 8. The Commission shall publish its Bylaws in a convenient  
 31-30 form and file a copy thereof and a copy of any amendment  
 31-31 thereto, with the appropriate agency or officer in each of  
 31-32 the Compact States;  
 31-33 9. The Commission shall maintain its financial records in  
 31-34 accordance with the Bylaws; and  
 31-35 10. The Commission shall meet and take such actions as are  
 31-36 consistent with the provisions of this Compact and the  
 31-37 Bylaws.  
 31-38 D. The Commission shall have the following powers:  
 31-39 1. The authority to promulgate uniform rules to facilitate  
 31-40 and coordinate implementation and administration of this  
 31-41 Compact. The rule shall have the force and effect of law  
 31-42 and shall be binding in all Compact States;  
 31-43 2. To bring and prosecute legal proceedings or actions in the  
 31-44 name of the Commission, provided that the standing of any  
 31-45 State Psychology Regulatory Authority or other regulatory  
 31-46 body responsible for psychology licensure to sue or be  
 31-47 sued under applicable law shall not be affected;  
 31-48 3. To purchase and maintain insurance and bonds;  
 31-49 4. To borrow, accept or contract for services of personnel,  
 31-50 including, but not limited to, employees of a Compact  
 31-51 State;  
 31-52 5. To hire employees, elect or appoint officers, fix  
 31-53 compensation, define duties, grant such individuals  
 31-54 appropriate authority to carry out the purposes of the  
 31-55 Compact, and to establish the Commission's personnel  
 31-56 policies and programs relating to conflicts of interest,  
 31-57 qualifications of personnel, and other related personnel  
 31-58 matters;  
 31-59 6. To accept any and all appropriate donations and grants of  
 31-60 money, equipment, supplies, materials and services, and to  
 31-61 receive, utilize and dispose of the same; provided that at  
 31-62 all times the Commission shall strive to avoid any  
 31-63 appearance of impropriety and/or conflict of interest;  
 31-64 7. To lease, purchase, accept appropriate gifts or donations  
 31-65 of, or otherwise to own, hold, improve or use, any  
 31-66 property, real, personal or mixed; provided that at all  
 31-67 times the Commission shall strive to avoid any appearance  
 31-68 of impropriety;  
 31-69 8. To sell, convey, mortgage, pledge, lease, exchange,

32-1 abandon or otherwise dispose of any property real,  
 32-2 personal or mixed;

32-3 9. To establish a budget and make expenditures;

32-4 10. To borrow money;

32-5 11. To appoint committees, including advisory committees  
 32-6 comprised of Members, State regulators, State legislators  
 32-7 or their representatives, and consumer representatives,  
 32-8 and such other interested persons as may be designated in  
 32-9 this Compact and the Bylaws;

32-10 12. To provide and receive information from, and to cooperate  
 32-11 with, law enforcement agencies;

32-12 13. To adopt and use an official seal; and

32-13 14. To perform such other functions as may be necessary or  
 32-14 appropriate to achieve the purposes of this Compact  
 32-15 consistent with the state regulation of psychology  
 32-16 licensure, temporary in-person, face-to-face practice and  
 32-17 telepsychology practice.

#### 32-18 E. The Executive Board

32-19 The elected officers shall serve as the Executive Board, which  
 32-20 shall have the power to act on behalf of the Commission  
 32-21 according to the terms of this Compact.

32-22 1. The Executive Board shall be comprised of six members:

32-23 a. Five voting members who are elected from the current  
 32-24 membership of the Commission by the Commission;

32-25 b. One ex-officio, nonvoting member from the recognized  
 32-26 membership organization composed of State and  
 32-27 Provincial Psychology Regulatory Authorities.

32-28 2. The ex-officio member must have served as staff or member  
 32-29 on a State Psychology Regulatory Authority and will be  
 32-30 selected by its respective organization.

32-31 3. The Commission may remove any member of the Executive Board  
 32-32 as provided in Bylaws.

32-33 4. The Executive Board shall meet at least annually.

32-34 5. The Executive Board shall have the following duties and  
 32-35 responsibilities:

32-36 a. Recommend to the entire Commission changes to the  
 32-37 Rules or Bylaws, changes to this Compact legislation,  
 32-38 fees paid by Compact States such as annual dues, and  
 32-39 any other applicable fees;

32-40 b. Ensure Compact administration services are  
 32-41 appropriately provided, contractual or otherwise;

32-42 c. Prepare and recommend the budget;

32-43 d. Maintain financial records on behalf of the  
 32-44 Commission;

32-45 e. Monitor Compact compliance of member states and  
 32-46 provide compliance reports to the Commission;

32-47 f. Establish additional committees as necessary; and

32-48 g. Other duties as provided in Rules or Bylaws.

#### 32-49 F. Financing of the Commission

32-50 1. The Commission shall pay, or provide for the payment of the  
 32-51 reasonable expenses of its establishment, organization  
 32-52 and ongoing activities.

32-53 2. The Commission may accept any and all appropriate revenue  
 32-54 sources, donations and grants of money, equipment,  
 32-55 supplies, materials and services.

32-56 3. The Commission may levy on and collect an annual assessment  
 32-57 from each Compact State or impose fees on other parties to  
 32-58 cover the cost of the operations and activities of the  
 32-59 Commission and its staff which must be in a total amount  
 32-60 sufficient to cover its annual budget as approved each  
 32-61 year for which revenue is not provided by other sources.  
 32-62 The aggregate annual assessment amount shall be allocated  
 32-63 based upon a formula to be determined by the Commission  
 32-64 which shall promulgate a rule binding upon all Compact  
 32-65 States.

32-66 4. The Commission shall not incur obligations of any kind  
 32-67 prior to securing the funds adequate to meet the same; nor  
 32-68 shall the Commission pledge the credit of any of the  
 32-69 Compact States, except by and with the authority of the



Compact State.

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

G. Qualified Immunity, Defense, and Indemnification

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

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

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

ARTICLE XI. RULEMAKING

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

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

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

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

1. On the website of the Commission; and
2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.

- 34-1 E. The Notice of Proposed Rulemaking shall include:  
 34-2 1. The proposed time, date, and location of the meeting in  
 34-3 which the rule will be considered and voted upon;  
 34-4 2. The text of the proposed rule or amendment and the reason  
 34-5 for the proposed rule;  
 34-6 3. A request for comments on the proposed rule from any  
 34-7 interested person; and  
 34-8 4. The manner in which interested persons may submit notice to  
 34-9 the Commission of their intention to attend the public  
 34-10 hearing and any written comments.
- 34-11 F. Prior to adoption of a proposed rule, the Commission shall  
 34-12 allow persons to submit written data, facts, opinions and  
 34-13 arguments, which shall be made available to the public.
- 34-14 G. The Commission shall grant an opportunity for a public hearing  
 34-15 before it adopts a rule or amendment if a hearing is requested  
 34-16 by:  
 34-17 1. At least twenty-five (25) persons who submit comments  
 34-18 independently of each other;  
 34-19 2. A governmental subdivision or agency; or  
 34-20 3. A duly appointed person in an association that has having  
 34-21 at least twenty-five (25) members.
- 34-22 H. If a hearing is held on the proposed rule or amendment, the  
 34-23 Commission shall publish the place, time, and date of the  
 34-24 scheduled public hearing.  
 34-25 1. All persons wishing to be heard at the hearing shall notify  
 34-26 the Executive Director of the Commission or other  
 34-27 designated member in writing of their desire to appear and  
 34-28 testify at the hearing not less than five (5) business days  
 34-29 before the scheduled date of the hearing.  
 34-30 2. Hearings shall be conducted in a manner providing each  
 34-31 person who wishes to comment a fair and reasonable  
 34-32 opportunity to comment orally or in writing.  
 34-33 3. No transcript of the hearing is required, unless a written  
 34-34 request for a transcript is made, in which case the person  
 34-35 requesting the transcript shall bear the cost of producing  
 34-36 the transcript. A recording may be made in lieu of a  
 34-37 transcript under the same terms and conditions as a  
 34-38 transcript. This subsection shall not preclude the  
 34-39 Commission from making a transcript or recording of the  
 34-40 hearing if it so chooses.  
 34-41 4. Nothing in this section shall be construed as requiring a  
 34-42 separate hearing on each rule. Rules may be grouped for the  
 34-43 convenience of the Commission at hearings required by this  
 34-44 section.
- 34-45 I. Following the scheduled hearing date, or by the close of  
 34-46 business on the scheduled hearing date if the hearing was not  
 34-47 held, the Commission shall consider all written and oral  
 34-48 comments received.
- 34-49 J. The Commission shall, by majority vote of all members, take  
 34-50 final action on the proposed rule and shall determine the  
 34-51 effective date of the rule, if any, based on the rulemaking  
 34-52 record and the full text of the rule.
- 34-53 K. If no written notice of intent to attend the public hearing by  
 34-54 interested parties is received, the Commission may proceed  
 34-55 with promulgation of the proposed rule without a public  
 34-56 hearing.
- 34-57 L. Upon determination that an emergency exists, the Commission may  
 34-58 consider and adopt an emergency rule without prior notice,  
 34-59 opportunity for comment, or hearing, provided that the usual  
 34-60 rulemaking procedures provided in the Compact and in this  
 34-61 section shall be retroactively applied to the rule as soon as  
 34-62 reasonably possible, in no event later than ninety (90) days  
 34-63 after the effective date of the rule. For the purposes of this  
 34-64 provision, an emergency rule is one that must be adopted  
 34-65 immediately in order to:  
 34-66 1. Meet an imminent threat to public health, safety, or  
 34-67 welfare;  
 34-68 2. Prevent a loss of Commission or Compact State funds;  
 34-69 3. Meet a deadline for the promulgation of an administrative

35-1 rule that is established by federal law or rule; or  
 35-2 4. Protect public health and safety.

- 35-3 M. The Commission or an authorized committee of the Commission may  
 35-4 direct revisions to a previously adopted rule or amendment for  
 35-5 purposes of correcting typographical errors, errors in format,  
 35-6 errors in consistency, or grammatical errors. Public notice of  
 35-7 any revisions shall be posted on the website of the Commission.  
 35-8 The revision shall be subject to challenge by any person for a  
 35-9 period of thirty (30) days after posting. The revision may be  
 35-10 challenged only on grounds that the revision results in a  
 35-11 material change to a rule. A challenge shall be made in  
 35-12 writing, and delivered to the Chair of the Commission prior to  
 35-13 the end of the notice period. If no challenge is made, the  
 35-14 revision will take effect without further action. If the  
 35-15 revision is challenged, the revision may not take effect  
 35-16 without the approval of the Commission.

35-17 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

35-18 A. Oversight

- 35-19 1. The Executive, Legislative and Judicial branches of state  
 35-20 government in each Compact State shall enforce this  
 35-21 Compact and take all actions necessary and appropriate to  
 35-22 effectuate the Compact's purposes and intent. The  
 35-23 provisions of this Compact and the rules promulgated  
 35-24 hereunder shall have standing as statutory law.  
 35-25 2. All courts shall take judicial notice of the Compact and  
 35-26 the rules in any judicial or administrative proceeding in  
 35-27 a Compact State pertaining to the subject matter of this  
 35-28 Compact which may affect the powers, responsibilities or  
 35-29 actions of the Commission.  
 35-30 3. The Commission shall be entitled to receive service of  
 35-31 process in any such proceeding, and shall have standing to  
 35-32 intervene in such a proceeding for all purposes. Failure  
 35-33 to provide service of process to the Commission shall  
 35-34 render a judgment or order void as to the Commission, this  
 35-35 Compact or promulgated rules.

35-36 B. Default, Technical Assistance, and Termination

- 35-37 1. If the Commission determines that a Compact State has  
 35-38 defaulted in the performance of its obligations or  
 35-39 responsibilities under this Compact or the promulgated  
 35-40 rules, the Commission shall:  
 35-41 a. Provide written notice to the defaulting state and  
 35-42 other Compact States of the nature of the default, the  
 35-43 proposed means of remedying the default and/or any  
 35-44 other action to be taken by the Commission; and  
 35-45 b. Provide remedial training and specific technical  
 35-46 assistance regarding the default.  
 35-47 2. If a state in default fails to remedy the default, the  
 35-48 defaulting state may be terminated from the Compact upon  
 35-49 an affirmative vote of a majority of the Compact States,  
 35-50 and all rights, privileges and benefits conferred by this  
 35-51 Compact shall be terminated on the effective date of  
 35-52 termination. A remedy of the default does not relieve the  
 35-53 offending state of obligations or liabilities incurred  
 35-54 during the period of default.  
 35-55 3. Termination of membership in the Compact shall be imposed  
 35-56 only after all other means of securing compliance have  
 35-57 been exhausted. Notice of intent to suspend or terminate  
 35-58 shall be submitted by the Commission to the Governor, the  
 35-59 majority and minority leaders of the defaulting state's  
 35-60 legislature, and each of the Compact States.  
 35-61 4. A Compact State which has been terminated is responsible  
 35-62 for all assessments, obligations and liabilities incurred  
 35-63 through the effective date of termination, including  
 35-64 obligations which extend beyond the effective date of  
 35-65 termination.  
 35-66 5. The Commission shall not bear any costs incurred by the  
 35-67 state which is found to be in default or which has been  
 35-68 terminated from the Compact, unless agreed upon in writing  
 35-69 between the Commission and the defaulting state.

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

C. Dispute Resolution

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

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

D. Enforcement

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain

37-1 in full force and effect as to the remaining Compact States.  
 37-2 Sec. 501.602. RULES ADOPTED UNDER COMPACT. The Psychology  
 37-3 Interjurisdictional Compact Commission established under the  
 37-4 Psychology Interjurisdictional Compact under Section 501.601 may  
 37-5 not adopt rules that alter the requirements or scope of practice of  
 37-6 a license issued under this chapter. Any rule adopted by the  
 37-7 Psychology Interjurisdictional Compact Commission that purports to  
 37-8 alter the requirements or scope of practice of a license issued  
 37-9 under this chapter is not enforceable.  
 37-10 Sec. 501.603. DISCLOSURE OF PERSONAL INFORMATION. (a) In  
 37-11 reporting information to the Coordinated Licensure Information  
 37-12 System under Article IX of the Psychology Interjurisdictional  
 37-13 Compact, the executive council may disclose personally  
 37-14 identifiable information about a person who holds a license under  
 37-15 this chapter, including the person's social security number.  
 37-16 (b) The Coordinated Licensure Information System may not  
 37-17 share personally identifiable information with a state that is not  
 37-18 a party to the compact unless the state agrees to not disclose that  
 37-19 information to any other person.  
 37-20 SECTION 2.029. Sections 502.002(2) and (5), Occupations  
 37-21 Code, are amended to read as follows:  
 37-22 (2) "Executive council" ["Commissioner"] means the  
 37-23 Texas Behavioral Health Executive Council [~~commissioner of state~~  
 37-24 health services].  
 37-25 (5) "Licensed marriage and family therapist  
 37-26 associate" means an individual who offers to provide marriage and  
 37-27 family therapy for compensation under the supervision of a  
 37-28 [~~board-approved~~] supervisor approved by the executive council.  
 37-29 SECTION 2.030. The heading to Section 502.053, Occupations  
 37-30 Code, is amended to read as follows:  
 37-31 Sec. 502.053. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.  
 37-32 SECTION 2.031. Sections 502.053(b) and (c), Occupations  
 37-33 Code, are amended to read as follows:  
 37-34 (b) A person may not be a member of the board [~~and may not be~~  
 37-35 a department employee employed in a "bona fide executive,  
 37-36 administrative, or professional capacity," as that phrase is used  
 37-37 for purposes of establishing an exemption to the overtime  
 37-38 provisions of the federal Fair Labor Standards Act of 1938 (29  
 37-39 U.S.C. Section 201 et seq.)] if:  
 37-40 (1) the person is an officer, employee, or paid  
 37-41 consultant of a Texas trade association in the field of health  
 37-42 services; or  
 37-43 (2) the person's spouse is an officer, manager, or paid  
 37-44 consultant of a Texas trade association in the field of mental  
 37-45 health.  
 37-46 (c) A person may not be a member of the board [~~or act as~~  
 37-47 general counsel to the board or the department] if the person is  
 37-48 required to register as a lobbyist under Chapter 305, Government  
 37-49 Code, because of the person's activities for compensation on behalf  
 37-50 of a profession related to the operation of the board.  
 37-51 SECTION 2.032. Section 502.056(c), Occupations Code, is  
 37-52 amended to read as follows:  
 37-53 (c) If the executive director of the executive council has  
 37-54 knowledge that a potential ground for removal exists, the executive  
 37-55 director shall notify the presiding officer of the board of the  
 37-56 potential ground. The presiding officer shall then notify the  
 37-57 governor and the attorney general that a potential ground for  
 37-58 removal exists. If the potential ground for removal involves the  
 37-59 presiding officer, the executive director shall notify the next  
 37-60 highest ranking officer of the board, who shall then notify the  
 37-61 governor and attorney general that a potential ground for removal  
 37-62 exists.  
 37-63 SECTION 2.033. Section 502.059, Occupations Code, is  
 37-64 amended by amending Subsection (b) and adding Subsection (d) to  
 37-65 read as follows:  
 37-66 (b) The training program must provide the person with  
 37-67 information regarding:  
 37-68 (1) the law governing board operations [~~this chapter~~];  
 37-69 (2) the programs, [~~operated by the board,~~

38-1 ~~[(3) the role and] functions, [of the board,~~  
 38-2 ~~[(4) the] rules, and [of the board, with an emphasis on~~  
 38-3 ~~the rules that relate to disciplinary and investigatory authority,~~  
 38-4 ~~[(5) the current] budget of [for] the board;~~  
 38-5 (3) the scope of and limitations on the rulemaking  
 38-6 authority of the board;  
 38-7 (4) the types of board rules, interpretations, and  
 38-8 enforcement actions that may implicate federal antitrust law by  
 38-9 limiting competition or impacting prices charged by persons engaged  
 38-10 in a profession or business the board regulates, including any  
 38-11 rule, interpretation, or enforcement action that:  
 38-12 (A) regulates the scope of practice of persons in  
 38-13 a profession or business the board regulates;  
 38-14 (B) restricts advertising by persons in a  
 38-15 profession or business the board regulates;  
 38-16 (C) affects the price of goods or services  
 38-17 provided by persons in a profession or business the board  
 38-18 regulates; or  
 38-19 (D) restricts participation in a profession or  
 38-20 business the board regulates;  
 38-21 (5) [-(6)-] the results of the most recent formal audit  
 38-22 of the board;  
 38-23 (6) [-(7)-] the requirements of:  
 38-24 (A) laws relating to open meetings, public  
 38-25 information, administrative procedure, and disclosure of conflicts  
 38-26 [conflict] of interest; and  
 38-27 (B) other laws applicable to members of the board  
 38-28 in performing their duties; and  
 38-29 (7) [-(8)-] any applicable ethics policies adopted by  
 38-30 the board or the Texas Ethics Commission.  
 38-31 (d) The executive director of the executive council shall  
 38-32 create a training manual that includes the information required by  
 38-33 Subsection (b). The executive director shall distribute a copy of  
 38-34 the training manual annually to each board member. Each member of  
 38-35 the board shall sign and submit to the executive director a  
 38-36 statement acknowledging that the member received and has reviewed  
 38-37 the training manual.  
 38-38 SECTION 2.034. The heading to Subchapter D, Chapter 502,  
 38-39 Occupations Code, is amended to read as follows:  
 38-40 SUBCHAPTER D. ~~[BOARD]~~ POWERS AND DUTIES  
 38-41 SECTION 2.035. Section 502.151, Occupations Code, is  
 38-42 amended to read as follows:  
 38-43 Sec. 502.151. GENERAL POWERS AND DUTIES OF EXECUTIVE  
 38-44 COUNCIL ~~[BOARD]~~. The executive council ~~[board]~~ shall:  
 38-45 (1) determine the qualifications and fitness of a  
 38-46 license applicant under this chapter; and  
 38-47 (2) adopt a code of professional ethics for license  
 38-48 holders.  
 38-49 SECTION 2.036. Subchapter D, Chapter 502, Occupations Code,  
 38-50 is amended by adding Section 502.1515 to read as follows:  
 38-51 Sec. 502.1515. BOARD DUTIES. The board shall propose to the  
 38-52 executive council:  
 38-53 (1) rules regarding:  
 38-54 (A) the qualifications necessary to obtain a  
 38-55 license, including rules limiting an applicant's eligibility for a  
 38-56 license based on the applicant's criminal history;  
 38-57 (B) the scope of practice of and standards of  
 38-58 care and ethical practice for marriage and family therapy; and  
 38-59 (C) continuing education requirements for  
 38-60 license holders; and  
 38-61 (2) a schedule of sanctions for violations of this  
 38-62 chapter or rules adopted under this chapter.  
 38-63 SECTION 2.037. Section 502.155, Occupations Code, is  
 38-64 amended to read as follows:  
 38-65 Sec. 502.155. POWERS AND DUTIES REGARDING EXAMINATION. The  
 38-66 executive council ~~[board]~~ shall:  
 38-67 (1) determine the times and places for licensing  
 38-68 examinations;  
 38-69 (2) offer examinations at least semiannually; and

39-1 (3) give reasonable public notice of the examinations  
 39-2 in the manner provided by executive council [~~board~~] rules.

39-3 SECTION 2.038. Section 502.159, Occupations Code, is  
 39-4 amended to read as follows:

39-5 Sec. 502.159. EX PARTE COMMUNICATION PROHIBITED. A [~~board~~]  
 39-6 member of the executive council or board or an [~~department~~]  
 39-7 employee of the executive council who [~~performs functions for the~~  
 39-8 ~~board and who~~] is assigned to make a decision, a finding of fact, or  
 39-9 a conclusion of law in a proceeding pending before the executive  
 39-10 council [~~board~~] may not directly or indirectly communicate with a  
 39-11 party to the proceeding or the party's representative unless notice  
 39-12 and an opportunity to participate are given to each party to the  
 39-13 proceeding.

39-14 SECTION 2.039. Section 502.252, Occupations Code, is  
 39-15 amended to read as follows:

39-16 Sec. 502.252. LICENSE APPLICATION. (a) An applicant for a  
 39-17 license must:

39-18 (1) file a written application with the executive  
 39-19 council [~~board~~] on a form prescribed by the executive council  
 39-20 [~~board~~]; and

39-21 (2) pay the appropriate application fee.

39-22 (b) To qualify for a license as a licensed marriage and  
 39-23 family therapist associate, a person must:

39-24 (1) be at least 18 years of age;

39-25 (2) have completed a graduate internship in marriage  
 39-26 and family therapy, or an equivalent internship, as approved by the  
 39-27 executive council [~~board~~];

39-28 (3) pass the license examination and jurisprudence  
 39-29 examination determined by the board;

39-30 (4) hold a master's or doctoral degree in marriage and  
 39-31 family therapy or in a related mental health field with coursework  
 39-32 and training determined by the executive council [~~board~~] to be  
 39-33 substantially equivalent to a graduate degree in marriage and  
 39-34 family therapy from a regionally accredited institution of higher  
 39-35 education or an institution of higher education approved by the  
 39-36 executive council [~~board~~];

39-37 (5) [~~be of good moral character,~~

39-38 [~~(6)~~] have not been convicted of a felony or a crime  
 39-39 involving moral turpitude;

39-40 (6) [~~(7)~~] not use drugs or alcohol to an extent that  
 39-41 affects the applicant's professional competency;

39-42 (7) [~~(8)~~] not have had a license or certification  
 39-43 revoked by a licensing agency or by a certifying professional  
 39-44 organization; and

39-45 (8) [~~(9)~~] not have engaged in fraud or deceit in  
 39-46 applying for a license under this chapter.

39-47 (c) An applicant is eligible to apply for a license as a  
 39-48 licensed marriage and family therapist if the person:

39-49 (1) meets the requirements of Subsection (b);

39-50 (2) after receipt of a degree described by Subsection  
 39-51 (b)(4), has completed two years of work experience in marriage and  
 39-52 family therapist services that includes at least 3,000 hours of  
 39-53 clinical practice consisting of [~~which:~~

39-54 [~~(A)~~] at least 1,500 hours [~~consist~~] of direct  
 39-55 clinical services, including a minimum number of [~~, and~~

39-56 [~~(B)~~ at least 750] hours providing [~~consist of~~]  
 39-57 direct clinical services to couples or families as required by  
 39-58 executive council rule; and

39-59 (3) has completed, in a manner acceptable to the  
 39-60 executive council [~~board~~], at least 200 hours of supervised  
 39-61 provision of direct clinical services by the applicant, 100 hours  
 39-62 of which must be supervised on an individual basis.

39-63 SECTION 2.040. Sections 502.253(a), (b), and (c),  
 39-64 Occupations Code, are amended to read as follows:

39-65 (a) The executive council [~~board~~] shall investigate each  
 39-66 application and any other information submitted by the applicant.

39-67 (b) Not later than the 90th day after the date the executive  
 39-68 council [~~board~~] receives the completed application from a person  
 39-69 seeking a license as a licensed marriage and family therapist

40-1 associate, the executive council [~~board~~] shall notify the applicant  
40-2 whether the application has been accepted or rejected.

40-3 (c) An applicant for a license as a licensed marriage and  
40-4 family therapist associate is eligible to take the examination if  
40-5 the applicant:

40-6 (1) is enrolled in a graduate internship described by  
40-7 Section 502.252(b)(2) and provides proof to the executive council  
40-8 [~~board~~] that the applicant is a student in good standing in an  
40-9 educational program described by Section 502.252(b)(4); or

40-10 (2) has completed the internship described by  
40-11 Subdivision (1).

40-12 SECTION 2.041. Sections 502.254(b) and (d), Occupations  
40-13 Code, are amended to read as follows:

40-14 (b) An applicant for a license as a licensed marriage and  
40-15 family therapist associate under Section 502.252(b) must:

40-16 (1) file an application on a form prescribed by the  
40-17 executive council [~~board~~] not later than the 90th day before the  
40-18 date of the examination; and

40-19 (2) pay the examination fee [~~set by the executive~~  
40-20 ~~commissioner of the Health and Human Services Commission by rule~~].

40-21 (d) The executive council [~~board~~] shall have any written  
40-22 portion of an examination validated by an independent testing  
40-23 professional.

40-24 SECTION 2.042. Section 502.2541, Occupations Code, is  
40-25 amended to read as follows:

40-26 Sec. 502.2541. JURISPRUDENCE EXAMINATION. (a) The board  
40-27 shall develop [~~and administer at least twice each calendar year~~] a  
40-28 jurisprudence examination to determine an applicant's knowledge of  
40-29 this chapter, [~~board~~] rules adopted under this chapter, and any  
40-30 other applicable laws of this state affecting the applicant's  
40-31 practice of marriage and family therapy. The executive council  
40-32 shall administer the examination at least twice each calendar year.

40-33 (b) The executive council [~~board~~] shall adopt rules to  
40-34 implement this section, including rules related to the development  
40-35 and administration of the examination, examination fees,  
40-36 guidelines for reexamination, grading the examination, and  
40-37 providing notice of examination results.

40-38 SECTION 2.043. Section 502.2545, Occupations Code, is  
40-39 amended to read as follows:

40-40 Sec. 502.2545. WAIVER OF EXAMINATION FOR CERTAIN  
40-41 APPLICANTS. (a) The executive council [~~board~~] may waive the  
40-42 requirement that an applicant for a license as a licensed marriage  
40-43 and family therapist pass the examination required by Section  
40-44 502.254 if the applicant:

40-45 (1) is a provisional license holder under Section  
40-46 502.259 and the executive council [~~board~~] determines that the  
40-47 applicant possesses sufficient education and professional  
40-48 experience to receive a license without further examination; or

40-49 (2) holds a license issued by another licensing agency  
40-50 in a profession related to the practice of marriage and family  
40-51 therapy and the executive council [~~board~~] determines that the  
40-52 applicant possesses sufficient education and professional  
40-53 experience to receive a license without satisfying the examination  
40-54 requirements of this chapter.

40-55 (b) The executive council [~~board~~] may adopt rules necessary  
40-56 to administer this section, including rules under Subsection (a)(2)  
40-57 prescribing the professions that are related to the practice of  
40-58 marriage and family therapy.

40-59 SECTION 2.044. Section 502.257, Occupations Code, is  
40-60 amended to read as follows:

40-61 Sec. 502.257. ISSUANCE OF LICENSE. The executive council  
40-62 [~~board~~] shall issue a license as a licensed marriage and family  
40-63 therapist associate or licensed marriage and family therapist, as  
40-64 appropriate, to an applicant who:

40-65 (1) complies with the requirements of this chapter;

40-66 (2) passes the licensing examination, unless the  
40-67 executive council [~~board~~] exempts the person from the examination  
40-68 requirement; and

40-69 (3) pays the required fees.



41-1 SECTION 2.045. Section 502.258(a), Occupations Code, is  
41-2 amended to read as follows:

41-3 (a) The executive council [~~board~~] by rule may provide for  
41-4 the issuance of a temporary license.

41-5 SECTION 2.046. Section 502.259, Occupations Code, is  
41-6 amended to read as follows:

41-7 Sec. 502.259. PROVISIONAL LICENSE. (a) The executive  
41-8 council [~~board~~] may grant a provisional license to practice as a  
41-9 marriage and family therapist in this state without examination to  
41-10 an applicant who is licensed or otherwise registered as a marriage  
41-11 and family therapist by another state or jurisdiction if the  
41-12 requirements to be licensed or registered in the other state or  
41-13 jurisdiction were, on the date the person was licensed or  
41-14 registered, substantially equal to the requirements of this  
41-15 chapter.

41-16 (b) An applicant for a provisional license must:

41-17 (1) be licensed in good standing as a marriage and  
41-18 family therapist in another state or jurisdiction that has  
41-19 licensing requirements that are substantially equal to the  
41-20 requirements of this chapter;

41-21 (2) have passed a national or other examination that:

41-22 (A) is recognized by the executive council  
41-23 [~~board~~]; and

41-24 (B) relates to marriage and family therapy; and

41-25 (3) be sponsored by a person licensed by the executive  
41-26 council [~~board~~] with whom the provisional license holder may  
41-27 practice under this section.

41-28 (c) An applicant may be excused from the requirement of  
41-29 Subsection (b)(3) if the executive council [~~board~~] determines that  
41-30 compliance with that subsection constitutes a hardship to the  
41-31 applicant.

41-32 (d) A provisional license is valid until the date the  
41-33 executive council [~~board~~] approves or denies the provisional  
41-34 license holder's application for a license under Section 502.257.  
41-35 The executive council [~~board~~] shall complete processing of a  
41-36 provisional license holder's application for a license not later  
41-37 than the 180th day after the date the provisional license is issued.  
41-38 The executive council [~~board~~] may extend this period to allow for  
41-39 the receipt and tabulation of pending examination results.

41-40 (e) The executive council [~~board~~] shall issue a license  
41-41 under Section 502.257 to a provisional license holder if:

41-42 (1) the provisional license holder passes the  
41-43 examination required by Section 502.254;

41-44 (2) the executive council [~~board~~] verifies that the  
41-45 provisional license holder satisfies the academic and experience  
41-46 requirements of this chapter; and

41-47 (3) the provisional license holder satisfies any other  
41-48 license requirements under this chapter.

41-49 SECTION 2.047. Sections 502.260(a), (b), and (d),  
41-50 Occupations Code, are amended to read as follows:

41-51 (a) The executive council [~~board~~] may place a license  
41-52 holder's license under this chapter on inactive status if the  
41-53 holder is not actively engaged in the practice of marriage and  
41-54 family therapy and the holder submits a written request to the  
41-55 executive council [~~board~~] before the expiration of the holder's  
41-56 license.

41-57 (b) The executive council [~~board~~] shall maintain a list of  
41-58 each license holder whose license is on inactive status.

41-59 (d) The executive council [~~board~~] shall remove the license  
41-60 holder's license from inactive status if the person:

41-61 (1) notifies the executive council [~~board~~] in writing  
41-62 that the person intends to return to active practice;

41-63 (2) pays an administrative fee; and

41-64 (3) complies with educational or other requirements  
41-65 the executive council [~~board~~] adopts by rule.

41-66 SECTION 2.048. Section 502.261(b), Occupations Code, is  
41-67 amended to read as follows:

41-68 (b) Each license holder shall notify the executive council  
41-69 [~~board~~] of the license holder's current address.

42-1 SECTION 2.049. Section 502.301(a), Occupations Code, is  
42-2 amended to read as follows:

42-3 (a) A license issued under this chapter is subject to  
42-4 biennial renewal. The executive council [~~board~~] shall adopt a  
42-5 system under which licenses expire on various dates during the  
42-6 year.

42-7 SECTION 2.050. The heading to Subchapter H, Chapter 502,  
42-8 Occupations Code, is amended to read as follows:

42-9 SUBCHAPTER H. DISCIPLINARY ACTIONS [~~AND PROCEDURES~~]

42-10 SECTION 2.051. Section 502.351, Occupations Code, is  
42-11 amended to read as follows:

42-12 Sec. 502.351. GROUNDS FOR DISCIPLINARY ACTIONS. The  
42-13 executive council [~~board~~] shall take disciplinary action under  
42-14 Subchapter G, Chapter 507, against [~~reprimand~~] a license holder  
42-15 who [~~, place on probation a person whose license has been suspended,~~  
42-16 ~~refuse to renew a person's license, or suspend or revoke a holder's~~  
42-17 ~~license if the person~~]:

42-18 (1) is convicted of a misdemeanor involving moral  
42-19 turpitude or a felony;

42-20 (2) obtains or attempts to obtain a license by fraud or  
42-21 deception;

42-22 (3) uses drugs or alcohol to an extent that affects the  
42-23 license holder's professional competence;

42-24 (4) performs professional duties in a grossly  
42-25 negligent manner;

42-26 (5) is adjudicated as mentally incompetent by a court;

42-27 (6) practices in a manner that is detrimental to the  
42-28 public health or welfare;

42-29 (7) advertises in a manner that tends to deceive or  
42-30 defraud the public;

42-31 (8) has a license or certification revoked by a  
42-32 licensing agency or a certifying professional organization;

42-33 (9) violates this chapter or a rule or code of ethics  
42-34 adopted under this chapter; or

42-35 (10) commits an act for which liability exists under  
42-36 Chapter 81, Civil Practice and Remedies Code.

42-37 SECTION 2.052. Section 502.357, Occupations Code, is  
42-38 amended to read as follows:

42-39 Sec. 502.357. GROUNDS FOR REFUSING RENEWAL. The executive  
42-40 council [~~board~~] may refuse to renew the license of a person who  
42-41 fails to pay an administrative penalty imposed under Subchapter H,  
42-42 Chapter 507, [~~±~~] unless enforcement of the penalty is stayed or a  
42-43 court has ordered that the administrative penalty is not owed.

42-44 SECTION 2.053. Section 502.358, Occupations Code, is  
42-45 amended to read as follows:

42-46 Sec. 502.358. REFUND. (a) Subject to Subsection (b), the  
42-47 executive council [~~board~~] may order a license holder to pay a refund  
42-48 to a consumer as provided in an agreement resulting from an informal  
42-49 settlement conference instead of or in addition to imposing an  
42-50 administrative penalty under Subchapter H, Chapter 507 [~~this~~  
42-51 ~~chapter~~].

42-52 (b) The amount of a refund ordered as provided in an  
42-53 agreement resulting from an informal settlement conference may not  
42-54 exceed the amount the consumer paid to the license holder for a  
42-55 service regulated by this chapter. The executive council [~~board~~]  
42-56 may not require payment of other damages or estimate harm in a  
42-57 refund order.

42-58 SECTION 2.054. The heading to Subchapter J, Chapter 502,  
42-59 Occupations Code, is amended to read as follows:

42-60 SUBCHAPTER J. CRIMINAL PENALTY [~~OTHER PENALTIES AND ENFORCEMENT~~  
42-61 ~~PROVISIONS~~]

42-62 SECTION 2.055. Section 503.002(2), Occupations Code, is  
42-63 amended to read as follows:

42-64 (2) "Executive council" [~~"Department"~~] means the  
42-65 Texas Behavioral Health Executive Council [~~Department of State~~  
42-66 ~~Health Services~~].

42-67 SECTION 2.056. The heading to Section 503.104, Occupations  
42-68 Code, is amended to read as follows:

42-69 Sec. 503.104. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS.

43-1 SECTION 2.057. Sections 503.104(b) and (c), Occupations  
43-2 Code, are amended to read as follows:

43-3 (b) A person may not be a member of the board [~~and may not be~~  
43-4 ~~a department employee employed in a "bona fide executive,~~  
43-5 ~~administrative, or professional capacity," as that phrase is used~~  
43-6 ~~for purposes of establishing an exemption to the overtime~~  
43-7 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
43-8 ~~U.S.C. Section 201 et seq.)~~] if:

43-9 (1) the person is an officer, employee, manager, or  
43-10 paid consultant of a Texas trade association in the field of health  
43-11 care; or

43-12 (2) the person's spouse is an officer, manager, or paid  
43-13 consultant of a Texas trade association in the field of mental  
43-14 health.

43-15 (c) A person may not be a member of the board [~~or act as the~~  
43-16 ~~general counsel to the board or the department~~] if the person is  
43-17 required to register as a lobbyist under Chapter 305, Government  
43-18 Code, because of the person's activities for compensation on behalf  
43-19 of a profession related to the operation of the board.

43-20 SECTION 2.058. Section 503.107(c), Occupations Code, is  
43-21 amended to read as follows:

43-22 (c) If the executive director of the executive council has  
43-23 knowledge that a potential ground for removal exists, the executive  
43-24 director shall notify the presiding officer of the board of the  
43-25 potential ground. The presiding officer shall then notify the  
43-26 governor and the attorney general that a potential ground for  
43-27 removal exists. If the potential ground for removal involves the  
43-28 presiding officer, the executive director shall notify the next  
43-29 highest ranking officer of the board, who shall then notify the  
43-30 governor and attorney general that a potential ground for removal  
43-31 exists.

43-32 SECTION 2.059. Section 503.110, Occupations Code, is  
43-33 amended by amending Subsection (b) and adding Subsection (d) to  
43-34 read as follows:

43-35 (b) The training program must provide the person with  
43-36 information regarding:

43-37 (1) the law governing board operations;

43-38 (2) [~~this chapter and~~] the [~~board's~~] programs,  
43-39 functions, rules, and budget of the board;

43-40 (3) the scope of and limitations on the rulemaking  
43-41 authority of the board;

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

43-47 (A) regulates the scope of practice of persons in  
43-48 a profession or business the board regulates;

43-49 (B) restricts advertising by persons in a  
43-50 profession or business the board regulates;

43-51 (C) affects the price of goods or services  
43-52 provided by persons in a profession or business the board  
43-53 regulates; or

43-54 (D) restricts participation in a profession or  
43-55 business the board regulates;

43-56 (5) [~~(2)~~] the results of the most recent formal audit  
43-57 of the board;

43-58 (6) [~~(3)~~] the requirements of:

43-59 (A) laws relating to open meetings, public  
43-60 information, administrative procedure, and disclosure of conflicts  
43-61 of interest [~~conflicts of interest~~]; and

43-62 (B) other laws applicable to members of the board  
43-63 in performing their duties; and

43-64 (7) [~~(4)~~] any applicable ethics policies adopted by  
43-65 the board or the Texas Ethics Commission.

43-66 (d) The executive director of the executive council shall  
43-67 create a training manual that includes the information required by  
43-68 Subsection (b). The executive director shall distribute a copy of  
43-69 the training manual annually to each board member. Each member of

44-1 the board shall sign and submit to the executive director a  
44-2 statement acknowledging that the member received and has reviewed  
44-3 the training manual.

44-4 SECTION 2.060. The heading to Subchapter E, Chapter 503,  
44-5 Occupations Code, is amended to read as follows:

44-6 SUBCHAPTER E. [BOARD] POWERS AND DUTIES

44-7 SECTION 2.061. Section 503.201, Occupations Code, is  
44-8 amended to read as follows:

44-9 Sec. 503.201. GENERAL POWERS AND DUTIES OF EXECUTIVE  
44-10 COUNCIL. (a) The executive council [board] shall:

44-11 (1) determine the qualifications and fitness of an  
44-12 applicant for a license, license renewal, or provisional license;

44-13 (2) examine for, deny, approve, issue, revoke,  
44-14 suspend, suspend on an emergency basis, place on probation, and  
44-15 renew the license of an applicant or license holder under this  
44-16 chapter;

44-17 (3) adopt and publish a code of ethics; and

44-18 (4) by rule adopt a list of authorized counseling  
44-19 methods or practices that a license holder may undertake or  
44-20 perform[~~, and~~

44-21 [~~(5) adopt an official seal~~].

44-22 (b) The executive council [board] may request and shall  
44-23 receive the assistance of a state educational institution or other  
44-24 state agency.

44-25 SECTION 2.062. Subchapter E, Chapter 503, Occupations Code,  
44-26 is amended by adding Section 503.2015 to read as follows:

44-27 Sec. 503.2015. BOARD DUTIES. The board shall propose to the  
44-28 executive council:

44-29 (1) rules regarding:

44-30 (A) the qualifications necessary to obtain a  
44-31 license, including rules limiting an applicant's eligibility for a  
44-32 license based on the applicant's criminal history;

44-33 (B) the scope of practice of and standards of  
44-34 care and ethical practice for professional counseling; and

44-35 (C) continuing education requirements for  
44-36 license holders; and

44-37 (2) a schedule of sanctions for violations of this  
44-38 chapter or rules adopted under this chapter.

44-39 SECTION 2.063. Section 503.302, Occupations Code, is  
44-40 amended to read as follows:

44-41 Sec. 503.302. QUALIFICATIONS FOR LICENSE. (a) A person  
44-42 qualifies for a license under this chapter if the person:

44-43 (1) is at least 18 years old;

44-44 (2) has a master's or doctoral degree in counseling or  
44-45 a related field;

44-46 (3) has successfully completed a graduate degree at a  
44-47 regionally accredited institution of higher education and the  
44-48 number of graduate semester hours required by executive council  
44-49 [board] rule, which may not be less than 48 hours and must include  
44-50 300 clock hours of supervised practicum that:

44-51 (A) is primarily counseling in nature; and

44-52 (B) meets the specific academic course content  
44-53 and training standards established by the executive council  
44-54 [board];

44-55 (4) has completed the number of supervised experience  
44-56 hours required by executive council [board] rule, which may not be  
44-57 less than 3,000 hours working in a counseling setting that meets the  
44-58 requirements established by the executive council [board] after the  
44-59 completion of the graduate program described by Subdivision (3);

44-60 (5) [~~except as provided by Subsection (b),~~] passes the  
44-61 license examination and jurisprudence examination required by this  
44-62 chapter;

44-63 (6) submits an application as required by the  
44-64 executive council [board], accompanied by the required application  
44-65 fee; and

44-66 (7) meets any other requirement prescribed by the  
44-67 executive council [board].

44-68 (b) [~~(a)~~] In establishing the standards described by  
44-69 Subsection (a)(3)(B), the executive council [board] shall review

45-1 and consider the standards as developed by the appropriate  
45-2 professional association.

45-3 (c) [~~e~~] The executive council [~~board~~] may require the  
45-4 statements on a license application to be made under oath.

45-5 SECTION 2.064. Subchapter G, Chapter 503, Occupations Code,  
45-6 is amended by adding Section 503.3025 to read as follows:

45-7 Sec. 503.3025. EXPERIENCE REQUIRED TO ACT AS SUPERVISOR.

45-8 The executive council shall allow a license holder who has  
45-9 practiced as a licensed counselor in another state to count that  
45-10 out-of-state experience toward any experience that the license  
45-11 holder is required by executive council rule to obtain to act as a  
45-12 supervisor under this chapter if the executive council determines  
45-13 that the other state has license requirements substantially  
45-14 equivalent to the requirements of this chapter.

45-15 SECTION 2.065. Section 503.303(b), Occupations Code, is  
45-16 amended to read as follows:

45-17 (b) The executive council [~~board~~] shall accept an  
45-18 individual course from an art therapy program accredited through  
45-19 the American Art Therapy Association as satisfying the education  
45-20 requirements under Section 503.302(a)(3) if at least 75 percent of  
45-21 the course content is substantially equivalent to the content of a  
45-22 course required by executive council [~~board~~] rule.

45-23 SECTION 2.066. Section 503.304, Occupations Code, is  
45-24 amended to read as follows:

45-25 Sec. 503.304. REVIEW OF APPLICATION. (a) Not later than  
45-26 the 30th day before the examination date, after investigation of a  
45-27 license application and review of other evidence submitted, the  
45-28 executive council [~~board~~] shall notify the applicant that the  
45-29 application and evidence submitted are:

45-30 (1) satisfactory and accepted; or

45-31 (2) unsatisfactory and rejected.

45-32 (b) If the executive council [~~board~~] rejects an  
45-33 application, the executive council [~~board~~] shall state in the  
45-34 notice the reasons for the rejection.

45-35 SECTION 2.067. Section 503.305, Occupations Code, is  
45-36 amended to read as follows:

45-37 Sec. 503.305. LICENSE EXAMINATION. (a) The executive  
45-38 council [~~board~~] shall administer examinations to determine the  
45-39 competence of qualified applicants at least twice each calendar  
45-40 year.

45-41 (b) The executive council [~~board~~] shall contract with a  
45-42 nationally recognized testing organization to develop and  
45-43 administer a written professional counselor licensing examination  
45-44 to applicants who apply for a license under this chapter.

45-45 SECTION 2.068. Section 503.3055, Occupations Code, is  
45-46 amended to read as follows:

45-47 Sec. 503.3055. JURISPRUDENCE EXAMINATION. (a) The board  
45-48 shall develop [~~and administer at least twice each calendar year~~] a  
45-49 jurisprudence examination to determine an applicant's knowledge of  
45-50 this chapter, executive council [~~board~~] rules, and any other  
45-51 applicable laws of this state affecting the applicant's  
45-52 professional counseling practice. The executive council shall  
45-53 administer the examination at least twice each calendar year.

45-54 (b) The executive council [~~board~~] shall adopt rules to  
45-55 implement this section, including rules related to the development  
45-56 and administration of the examination, examination fees,  
45-57 guidelines for reexamination, grading the examination, and  
45-58 providing notice of examination results.

45-59 SECTION 2.069. Section 503.308, Occupations Code, is  
45-60 amended to read as follows:

45-61 Sec. 503.308. TEMPORARY LICENSE. (a) The executive  
45-62 council [~~board~~] by rule may provide for the issuance of a temporary  
45-63 license. Rules adopted under this subsection must provide a time  
45-64 limit for the period a temporary license is valid.

45-65 (b) The executive council [~~board~~] by rule may adopt a system  
45-66 under which a temporary license may be issued to a person who:

45-67 (1) meets all of the academic requirements for  
45-68 licensing; and

45-69 (2) enters into a supervisory agreement with a

46-1 supervisor approved by the executive council [~~board~~].

46-2 SECTION 2.070. Sections 503.310(a), (c), and (d),  
46-3 Occupations Code, are amended to read as follows:

46-4 (a) On application and payment of applicable fees, the  
46-5 executive council [~~board~~] may issue a provisional license to a  
46-6 person who holds a license as a counselor or art therapist issued by  
46-7 another state or by a jurisdiction acceptable to the executive  
46-8 council [~~board~~].

46-9 (c) An applicant is not required to comply with Subsection  
46-10 (b)(3) if the executive council [~~board~~] determines that compliance  
46-11 with that subsection is a hardship to the applicant.

46-12 (d) A provisional license is valid until the date the  
46-13 executive council [~~board~~] approves or denies the provisional  
46-14 license holder's application for a license under Section 503.311.

46-15 SECTION 2.071. Section 503.311, Occupations Code, is  
46-16 amended to read as follows:

46-17 Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE  
46-18 HOLDER. (a) The executive council [~~board~~] shall issue a license to  
46-19 the holder of a provisional license who applies for a license if:

46-20 (1) the executive council [~~board~~] verifies that the  
46-21 applicant has the academic and experience requirements for a  
46-22 regular license under this chapter; and

46-23 (2) the applicant satisfies any other license  
46-24 requirements under this chapter.

46-25 (b) The executive council [~~board~~] must complete the  
46-26 processing of a provisional license holder's application for a  
46-27 license not later than the later of:

46-28 (1) the 180th day after the date the provisional  
46-29 license is issued; or

46-30 (2) the date licenses are issued following completion  
46-31 of the next licensing and jurisprudence examinations  
46-32 [~~examination~~].

46-33 SECTION 2.072. Sections 503.312(a) and (c), Occupations  
46-34 Code, are amended to read as follows:

46-35 (a) On request of a person licensed under this chapter, the  
46-36 executive council [~~board~~] shall place the person's license on  
46-37 inactive status.

46-38 (c) A person whose license is inactive may apply to  
46-39 reactivate the license. The executive council [~~board~~] shall  
46-40 reactivate the license if the applicant:

46-41 (1) pays a license fee;

46-42 (2) is not in violation of this chapter when the  
46-43 applicant applies to reactivate the license; and

46-44 (3) fulfills the requirements provided by executive  
46-45 council [~~board~~] rule for the holder of an inactive license.

46-46 SECTION 2.073. Section 503.313, Occupations Code, is  
46-47 amended to read as follows:

46-48 Sec. 503.313. RETIREMENT STATUS. The executive council  
46-49 [~~board~~] by rule may adopt a system for placing a person licensed  
46-50 under this chapter on retirement status.

46-51 SECTION 2.074. Section 503.314(b), Occupations Code, is  
46-52 amended to read as follows:

46-53 (b) A license certificate issued by the executive council  
46-54 [~~board~~] is the property of the executive council [~~board~~] and must be  
46-55 surrendered on demand.

46-56 SECTION 2.075. Section 503.351, Occupations Code, is  
46-57 amended to read as follows:

46-58 Sec. 503.351. RENEWAL; ELIGIBILITY. A person licensed  
46-59 under this chapter may renew the license biennially if the person:

46-60 (1) is not in violation of this chapter when the person  
46-61 applies for renewal; and

46-62 (2) fulfills the continuing education requirements  
46-63 established by the executive council [~~board~~].

46-64 SECTION 2.076. Section 503.352, Occupations Code, is  
46-65 amended to read as follows:

46-66 Sec. 503.352. LICENSE EXPIRATION DATE. The executive  
46-67 council [~~board~~] shall adopt a system under which licenses expire on  
46-68 various dates during the year. On renewal of the license on the  
46-69 expiration date, the total license renewal fee is payable.

47-1 SECTION 2.077. Section 503.353, Occupations Code, is  
47-2 amended to read as follows:

47-3 Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Not later than  
47-4 the 30th day before the expiration date of a person's license, the  
47-5 executive council [board] shall send written notice of the  
47-6 impending license expiration to the person at the person's last  
47-7 known address according to the executive council's [board's]  
47-8 records.

47-9 SECTION 2.078. The heading to Subchapter I, Chapter 503,  
47-10 Occupations Code, is amended to read as follows:

47-11 SUBCHAPTER I. DISCIPLINARY ACTIONS [~~PROCEDURES~~]

47-12 SECTION 2.079. Section 503.401(a), Occupations Code, is  
47-13 amended to read as follows:

47-14 (a) A person licensed under this chapter is subject to  
47-15 disciplinary action under Subchapter G, Chapter 507, [~~this section~~]  
47-16 if the person:

47-17 (1) violates this chapter or a rule or code of ethics  
47-18 adopted under this chapter [by the board];

47-19 (2) commits an act for which the license holder would  
47-20 be liable under Chapter 81, Civil Practice and Remedies Code;

47-21 (3) is legally committed to an institution because of  
47-22 mental incompetence from any cause; or

47-23 (4) directly or indirectly offers to pay or agrees to  
47-24 accept remuneration to or from any person for securing or  
47-25 soliciting a patient or patronage.

47-26 SECTION 2.080. Section 503.407, Occupations Code, is  
47-27 amended to read as follows:

47-28 Sec. 503.407. REFUND. (a) Subject to Subsection (b), the  
47-29 executive council [board] may order a license holder to pay a refund  
47-30 to a consumer as provided in an agreement resulting from an informal  
47-31 settlement conference instead of or in addition to imposing an  
47-32 administrative penalty under Subchapter H, Chapter 507 [~~this~~  
47-33 ~~chapter~~].

47-34 (b) The amount of a refund ordered as provided in an  
47-35 agreement resulting from an informal settlement conference may not  
47-36 exceed the amount the consumer paid to the license holder for a  
47-37 service regulated by this chapter. The executive council [board]  
47-38 may not require payment of other damages or estimate harm in a  
47-39 refund order.

47-40 SECTION 2.081. Section 503.453, Occupations Code, is  
47-41 amended to read as follows:

47-42 Sec. 503.453. REPORT OF ALLEGED OFFENSE. The executive  
47-43 council [board] shall notify the appropriate prosecuting attorney  
47-44 of an alleged offense committed under this chapter.

47-45 SECTION 2.082. Section 505.002, Occupations Code, is  
47-46 amended to read as follows:

47-47 Sec. 505.002. DEFINITIONS. In this chapter:

47-48 (1) [~~(2)~~] "Board" means the Texas State Board of  
47-49 Social Worker Examiners.

47-50 (2) [~~(3)~~] "Council on Social Work Education" means the  
47-51 national organization that is primarily responsible for the  
47-52 accreditation of schools of social work in the United States or its  
47-53 successor approved by the executive council [board].

47-54 (3) "Executive council" means the Texas Behavioral  
47-55 Health Executive Council.

47-56 (4) [~~"Department" means the Department of State Health~~  
47-57 ~~Services.~~

47-58 [~~(4-a)~~] "Licensed baccalaureate social worker" means  
47-59 a person who holds a baccalaureate social worker license issued [~~by~~  
47-60 ~~the board~~] under this chapter.

47-61 (5) [~~(4-b)~~] "Licensed clinical social worker" means a  
47-62 person who holds a clinical social worker license issued [~~by the~~  
47-63 ~~board~~] under this chapter.

47-64 (6) [~~(5)~~] "Licensed master social worker" means a  
47-65 person who holds a master social worker license issued [~~by the~~  
47-66 ~~board~~] under this chapter.

47-67 (7) [~~(6)~~] "Licensed social worker" means a person who  
47-68 holds a social worker license issued [~~by the board~~] under this  
47-69 chapter.

48-1 (8) ~~[(9)]~~ "Social worker" means a person who holds any  
48-2 license issued ~~[by the board]~~ under this chapter.

48-3 SECTION 2.083. Section 505.102(b), Occupations Code, is  
48-4 amended to read as follows:

48-5 (b) A person is not eligible for appointment as a public  
48-6 member of the board if:

48-7 (1) the person is registered, certified, or licensed  
48-8 by an occupational regulatory agency in the field of health care;

48-9 (2) the person's spouse is registered, certified, or  
48-10 licensed by an occupational regulatory agency in the field of  
48-11 mental health; or

48-12 (3) the person or the person's spouse:

48-13 (A) is employed by or participates in the  
48-14 management of a business entity or other organization regulated by  
48-15 or receiving funds from the board or executive council  
48-16 ~~[department]~~;

48-17 (B) owns or controls, directly or indirectly,  
48-18 more than a 10 percent interest in a business entity or other  
48-19 organization regulated by or receiving funds from the board or  
48-20 executive council ~~[department]~~; or

48-21 (C) uses or receives a substantial amount of  
48-22 tangible goods, services, or funds from the board or executive  
48-23 council ~~[department]~~, other than compensation or reimbursement  
48-24 authorized by law for board membership, attendance, or expenses.

48-25 SECTION 2.084. The heading to Section 505.103, Occupations  
48-26 Code, is amended to read as follows:

48-27 Sec. 505.103. MEMBERSHIP ~~[AND EMPLOYEE]~~ RESTRICTIONS.

48-28 SECTION 2.085. Sections 505.103(b) and (c), Occupations  
48-29 Code, are amended to read as follows:

48-30 (b) A person may not be a member of the board ~~[and may not be~~  
48-31 ~~an employee of the department employed in a "bona fide executive,~~  
48-32 ~~administrative, or professional capacity," as that phrase is used~~  
48-33 ~~for purposes of establishing an exemption to the overtime~~  
48-34 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
48-35 ~~U.S.C. Section 201 et seq.)]~~ if:

48-36 (1) the person is an officer, employee, or paid  
48-37 consultant of a Texas trade association in the field of health care;  
48-38 or

48-39 (2) the person's spouse is an officer, manager, or paid  
48-40 consultant of a Texas trade association in the field of mental  
48-41 health.

48-42 (c) A person may not be a member of the board ~~[or act as~~  
48-43 ~~general counsel to the board or the department]~~ if the person is  
48-44 required to register as a lobbyist under Chapter 305, Government  
48-45 Code, because of the person's activities for compensation on behalf  
48-46 of a profession related to the operation of the board.

48-47 SECTION 2.086. Section 505.109, Occupations Code, is  
48-48 amended by amending Subsection (b) and adding Subsection (d) to  
48-49 read as follows:

48-50 (b) The training program must provide the person with  
48-51 information regarding:

48-52 (1) the law governing ~~[legislation that created the]~~  
48-53 board operations;

48-54 (2) [and] the [board's] programs, functions, rules,  
48-55 and budget of the board;

48-56 (3) the scope of and limitations on the rulemaking  
48-57 authority of the board;

48-58 (4) the types of board rules, interpretations, and  
48-59 enforcement actions that may implicate federal antitrust law by  
48-60 limiting competition or impacting prices charged by persons engaged  
48-61 in a profession or business the board regulates, including any  
48-62 rule, interpretation, or enforcement action that:

48-63 (A) regulates the scope of practice of persons in  
48-64 a profession or business the board regulates;

48-65 (B) restricts advertising by persons in a  
48-66 profession or business the board regulates;

48-67 (C) affects the price of goods or services  
48-68 provided by persons in a profession or business the board  
48-69 regulates; or



49-1 (D) restricts participation in a profession or  
 49-2 business the board regulates;

49-3 (5) [~~(2)~~] the results of the most recent formal audit  
 49-4 of the board;

49-5 (6) [~~(3)~~] the requirements of:

49-6 (A) laws relating to open meetings, public  
 49-7 information, administrative procedure, and disclosure of conflicts  
 49-8 of interest; and

49-9 (B) other laws applicable to members of the board  
 49-10 in performing their duties; and

49-11 (7) [~~(4)~~] any applicable ethics policies adopted by  
 49-12 the board or the Texas Ethics Commission.

49-13 (d) The executive director of the executive council shall  
 49-14 create a training manual that includes the information required by  
 49-15 Subsection (b). The executive director shall distribute a copy of  
 49-16 the training manual annually to each board member. Each member of  
 49-17 the board shall sign and submit to the executive director a  
 49-18 statement acknowledging that the member received and has reviewed  
 49-19 the training manual.

49-20 SECTION 2.087. Section 505.201, Occupations Code, is  
 49-21 amended to read as follows:

49-22 Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY  
 49-23 OF EXECUTIVE COUNCIL. (a) The executive council [~~board~~] may:

49-24 (1) adopt and enforce rules necessary to perform the  
 49-25 executive council's [~~board's~~] duties under this chapter;

49-26 (2) establish standards of conduct and ethics for  
 49-27 license holders; and

49-28 (3) ensure strict compliance with and enforcement of  
 49-29 this chapter.

49-30 (b) [~~In adopting rules under this section, the board shall~~  
 49-31 ~~consider the rules and procedures of the department. The board~~  
 49-32 ~~shall adopt procedural rules, which may not be inconsistent with~~  
 49-33 ~~similar rules and procedures of the department.~~

49-34 [~~(c)~~] The executive council [~~board~~] by rule may define a  
 49-35 term not defined under Section 505.002 if a definition is necessary  
 49-36 to administer or enforce this chapter.

49-37 (c) [~~(c)~~] For each type of license issued under this  
 49-38 chapter, the executive council [~~board~~] shall establish:

49-39 (1) the minimum eligibility requirements;

49-40 (2) educational requirements;

49-41 (3) professional experience criteria;

49-42 (4) supervision requirements; and

49-43 (5) independent practice criteria.

49-44 (d) [~~(f)~~] The executive council [~~board~~] shall establish  
 49-45 procedures for recognition of independent practice.

49-46 SECTION 2.088. Subchapter D, Chapter 505, Occupations Code,  
 49-47 is amended by adding Section 505.2015 to read as follows:

49-48 Sec. 505.2015. BOARD DUTIES. The board shall propose to the  
 49-49 executive council:

49-50 (1) rules regarding:

49-51 (A) the qualifications necessary to obtain a  
 49-52 license or order of recognition of specialty, including rules  
 49-53 limiting an applicant's eligibility for a license or order based on  
 49-54 the applicant's criminal history;

49-55 (B) the scope of practice of and standards of  
 49-56 care and ethical practice for social work; and

49-57 (C) continuing education requirements for  
 49-58 license holders or holders of orders of recognition of specialty;  
 49-59 and

49-60 (2) a schedule of sanctions for violations of this  
 49-61 chapter or rules adopted under this chapter.

49-62 SECTION 2.089. Section 505.206, Occupations Code, is  
 49-63 amended to read as follows:

49-64 Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS. The  
 49-65 executive council [~~board~~] shall publish a roster of persons  
 49-66 recognized under Section 505.307 as qualified for the independent  
 49-67 practice of social work.

49-68 SECTION 2.090. Section 505.301, Occupations Code, is  
 49-69 amended to read as follows:

50-1           Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The  
50-2 executive council [board] may establish within the scope of social  
50-3 work practice and this chapter specialty areas of social work for  
50-4 license holders under this chapter who are licensed in good  
50-5 standing if establishment of the specialty areas:

- 50-6           (1) is necessary to promote the public interest; and
- 50-7           (2) assists the public in identifying qualified  
50-8 persons in a social work practice specialty.

50-9           (b) The executive council [board] may not authorize a  
50-10 specialty area within the practice of social work unless the  
50-11 executive council [board] sets the minimum qualifications for  
50-12 social work practice with appropriate supervision and examination,  
50-13 as determined by the executive council [board].

50-14           (c) The executive council [board] may not establish a  
50-15 specialty area of social work or a specialty area identification  
50-16 that conflicts with a state licensing law.

50-17           SECTION 2.091. Section 505.302(a), Occupations Code, is  
50-18 amended to read as follows:

50-19           (a) In establishing a specialty area of social work, the  
50-20 executive council [board] shall:

- 50-21           (1) define the scope of the specialty;
- 50-22           (2) establish qualifications for specialty area  
50-23 practitioners that describe, in accordance with Subdivision (1),  
50-24 the scope of the specialty area;
- 50-25           (3) adopt rules of conduct to ensure strict compliance  
50-26 with and enforcement of this chapter; and
- 50-27           (4) adopt rules for the suspension or revocation of an  
50-28 order of recognition of specialty.

50-29           SECTION 2.092. Sections 505.303(a) and (c), Occupations  
50-30 Code, are amended to read as follows:

50-31           (a) The executive council [board] shall establish a  
50-32 specialty area for the practice of clinical social work that is  
50-33 available only to a licensed master social worker who satisfies the  
50-34 minimum number of years of active social work practice with  
50-35 appropriate supervision and clinical examination, as determined by  
50-36 the executive council [board].

50-37           (c) For purposes of Subchapter C, Chapter 1451, Insurance  
50-38 Code:

- 50-39           (1) a person recognized as qualified for the  
50-40 independent practice of clinical social work may use the title  
50-41 "Licensed Clinical Social Worker" or another title approved by the  
50-42 executive council [board]; and
- 50-43           (2) a ~~[board-approved]~~ title approved by the executive  
50-44 council under this subsection has the same meaning and effect as the  
50-45 title "Licensed Clinical Social Worker."

50-46           SECTION 2.093. Section 505.304, Occupations Code, is  
50-47 amended to read as follows:

50-48           Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The  
50-49 executive council [board] shall prescribe the name, design, and  
50-50 content of an order of recognition of specialty.

- 50-51           (b) An order of recognition of specialty must:
  - 50-52           (1) state the full name of the person recognized in the  
50-53 order; and
  - 50-54           (2) state the official specialty serial number [+  
50-55 ~~[(3) include the presiding officer's signature; and~~
  - 50-56 ~~[(4) include the board's official seal].~~

50-57           SECTION 2.094. Section 505.305, Occupations Code, is  
50-58 amended to read as follows:

50-59           Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER.  
50-60 (a) The executive council [board] shall recognize a social worker  
50-61 as qualified for the practice of a specialty area of social work if  
50-62 the social worker satisfies the recognition requirements  
50-63 established by the executive council [board] and the executive  
50-64 council [board] determines that the person is worthy of the public  
50-65 trust in performing services within the scope of the specialty  
50-66 area.

50-67           (b) The executive council [board] shall issue an order of  
50-68 recognition of specialty to a social worker who is recognized as  
50-69 qualified for the practice of a specialty area of social work. The

51-1 order of recognition of specialty evidences the state's recognition  
51-2 of the social worker as a specialty social work practitioner under  
51-3 the identification or title designated by the executive council  
51-4 [~~board~~].

51-5 SECTION 2.095. Section 505.306, Occupations Code, is  
51-6 amended to read as follows:

51-7 Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA  
51-8 IDENTIFICATION OR TITLE. If the executive council [~~board~~]  
51-9 establishes a specialty area of social work, a social worker may not  
51-10 use the specialty area identification or title designated by the  
51-11 executive council [~~board~~] unless the person is recognized as  
51-12 qualified for the practice of the specialty area under this  
51-13 chapter.

51-14 SECTION 2.096. Section 505.307, Occupations Code, is  
51-15 amended to read as follows:

51-16 Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM  
51-17 QUALIFICATIONS. (a) The executive council [~~board~~] shall establish  
51-18 procedures for recognizing a social worker qualified for the  
51-19 independent practice of social work.

51-20 (b) A social worker may not be recognized as qualified for  
51-21 the independent practice of social work unless the person satisfies  
51-22 the requirements of social work education, experience, and  
51-23 supervision as determined by the executive council [~~board~~].

51-24 SECTION 2.097. Section 505.352, Occupations Code, is  
51-25 amended to read as follows:

51-26 Sec. 505.352. LICENSE APPLICATION. A person may apply for a  
51-27 license under this chapter by submitting an application to the  
51-28 executive council [~~board~~]. The application must:

51-29 (1) be on a form prescribed by the executive council  
51-30 [~~board~~]; and

51-31 (2) contain statements made under oath regarding the  
51-32 applicant's education and experience and any other information  
51-33 required by the executive council [~~board~~] that qualifies the  
51-34 applicant for a license.

51-35 SECTION 2.098. Section 505.353, Occupations Code, is  
51-36 amended to read as follows:

51-37 Sec. 505.353. ELIGIBILITY. (a) To be eligible for a  
51-38 license under this chapter, an applicant must:

51-39 (1) be at least 18 years of age;

51-40 (2) be worthy of the public trust and confidence;

51-41 (3) satisfy the education and experience requirements  
51-42 under this section; and

51-43 (4) pass the licensing examination conducted by the  
51-44 executive council [~~board~~] under Section 505.354 and the  
51-45 jurisprudence examination conducted by the executive council  
51-46 [~~board~~] under Section 505.3545.

51-47 (b) An applicant may take the licensing examination  
51-48 conducted by the executive council [~~board~~] under Section 505.354  
51-49 for:

51-50 (1) a master social worker license if the applicant  
51-51 possesses a doctoral or master's degree in social work from a  
51-52 graduate program that is accredited by or is in candidacy for  
51-53 accreditation by the Council on Social Work Education;

51-54 (2) a baccalaureate social worker license if the  
51-55 applicant possesses a baccalaureate degree in social work from an  
51-56 educational program that is accredited by or is in candidacy for  
51-57 accreditation by the Council on Social Work Education; or

51-58 (3) a clinical social worker license if the applicant  
51-59 possesses a doctoral or master's degree in social work from an  
51-60 accredited graduate program approved by the executive council  
51-61 [~~board~~] and meets the qualifications for clinical social work  
51-62 practice as determined by the executive council [~~board~~] under this  
51-63 chapter.

51-64 (c) The executive council [~~board~~] may require an applicant  
51-65 to submit documentary evidence of the quality, scope, and nature of  
51-66 the applicant's experience and competence to:

51-67 (1) determine the credibility and acceptability of the  
51-68 applicant's professional or technical experience or competence;  
51-69 and

52-1 (2) ensure the public safety, health, and welfare.  
52-2 SECTION 2.099. Sections 505.354(a), (b), and (e),  
52-3 Occupations Code, are amended to read as follows:

52-4 (a) The board~~[, at least once each calendar year,]~~ shall  
52-5 prepare ~~[and administer]~~ an examination to assess an applicant's  
52-6 qualifications for a license under this chapter. The executive  
52-7 council shall administer the examination at least once each  
52-8 calendar year.

52-9 (b) Each license examination shall be conducted in a manner  
52-10 that is determined by the executive council ~~[board]~~ and is fair and  
52-11 impartial to each applicant and school or system of social work.

52-12 (e) The executive council ~~[board]~~ shall have the written  
52-13 portion of the examination, if any, validated by an independent  
52-14 testing entity.

52-15 SECTION 2.100. Section 505.3545, Occupations Code, is  
52-16 amended to read as follows:

52-17 Sec. 505.3545. JURISPRUDENCE EXAMINATION. (a) The board  
52-18 shall develop ~~[and administer at least twice each calendar year]~~ a  
52-19 jurisprudence examination to determine an applicant's knowledge of  
52-20 this chapter, ~~[board]~~ rules adopted under this chapter, and any  
52-21 other applicable laws of this state affecting the applicant's  
52-22 social work practice. The executive council shall administer the  
52-23 examination at least twice each calendar year.

52-24 (b) The executive council ~~[board]~~ shall adopt rules to  
52-25 implement this section, including rules related to the development  
52-26 and administration of the examination, examination fees,  
52-27 guidelines for reexamination, grading the examination, and  
52-28 providing notice of examination results.

52-29 SECTION 2.101. Section 505.357(a), Occupations Code, is  
52-30 amended to read as follows:

52-31 (a) The executive council ~~[board]~~ shall issue a temporary  
52-32 license to an applicant who:

52-33 (1) has not taken the licensing examination under  
52-34 Section 505.354 or the jurisprudence examination under Section  
52-35 505.3545; and

52-36 (2) satisfies the requirements for obtaining a license  
52-37 under this chapter other than passing the licensing and  
52-38 jurisprudence examinations.

52-39 SECTION 2.102. Section 505.3575, Occupations Code, is  
52-40 amended to read as follows:

52-41 Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE  
52-42 APPLICANTS. (a) Notwithstanding any other licensing requirement  
52-43 of this subchapter:

52-44 (1) the executive council ~~[board]~~ may not require an  
52-45 applicant who is licensed in good standing in another state to pass  
52-46 a licensing examination conducted by the executive council ~~[board]~~  
52-47 under Section 505.354 if an applicant with substantially equivalent  
52-48 experience who resides in this state would not be required to take  
52-49 the licensing examination; and

52-50 (2) the executive council ~~[board]~~ may issue a license  
52-51 to an applicant who is currently licensed in another state to  
52-52 independently practice social work if:

52-53 (A) after an assessment, the executive council  
52-54 ~~[board]~~ determines that the applicant:

52-55 (i) demonstrates sufficient experience and  
52-56 competence;

52-57 (ii) has passed the jurisprudence  
52-58 examination conducted by the executive council ~~[board]~~ under  
52-59 Section 505.3545; and

52-60 (iii) at the time of the application, is in  
52-61 good standing with the regulatory agency of the state in which the  
52-62 applicant is licensed; and

52-63 (B) the applicant presents to the executive  
52-64 council ~~[board]~~ credentials that the applicant obtained from a  
52-65 national accreditation organization and the executive council  
52-66 ~~[board]~~ determines that the requirements to obtain the credentials  
52-67 are sufficient to minimize any risk to public safety.

52-68 (b) When assessing the experience and competence of an  
52-69 applicant for the purposes of this section, the executive council

53-1 [~~board~~] may take into consideration any supervision received by the  
53-2 applicant in another state or jurisdiction if the executive council  
53-3 [~~board~~] determines that the supervision would be taken into  
53-4 consideration for the purpose of licensing or certification in the  
53-5 state or jurisdiction in which the applicant received the  
53-6 supervision.

53-7 SECTION 2.103. Section 505.358, Occupations Code, is  
53-8 amended to read as follows:

53-9 Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply  
53-10 for a provisional license as a social worker by paying the  
53-11 appropriate fee and filing an application with the executive  
53-12 council [~~board~~]. The executive council [~~board~~] may issue a  
53-13 provisional license to a person who meets the requirements of this  
53-14 section.

53-15 (b) An applicant for a provisional license must:

53-16 (1) be licensed or certified in good standing as a  
53-17 social worker in another state or jurisdiction that has licensing  
53-18 or certification requirements determined by the executive council  
53-19 [~~board~~] to be substantially equivalent to the requirements of this  
53-20 chapter;

53-21 (2) have passed a national or other examination  
53-22 recognized by the executive council [~~board~~] relating to the  
53-23 practice of social work; and

53-24 (3) be sponsored by a person licensed under this  
53-25 chapter with whom the provisional license holder may practice  
53-26 social work.

53-27 (c) An applicant is not required to comply with Subsection  
53-28 (b)(3) if the executive council [~~board~~] determines that compliance  
53-29 constitutes a hardship to the applicant.

53-30 (d) A provisional license is valid until the date the  
53-31 executive council [~~board~~] approves or denies the provisional  
53-32 license holder's application for a license under Section 505.359.

53-33 SECTION 2.104. Section 505.359, Occupations Code, is  
53-34 amended to read as follows:

53-35 Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE  
53-36 HOLDER. (a) The executive council [~~board~~] shall issue an  
53-37 appropriate license to a provisional license holder:

53-38 (1) who passes the licensing examination under Section  
53-39 505.354 and the jurisprudence examination under Section 505.3545;

53-40 (2) for whom the executive council [~~board~~] verifies  
53-41 that the person satisfies the academic and experience requirements  
53-42 under Section 505.353; and

53-43 (3) who satisfies any other license requirements under  
53-44 this chapter.

53-45 (b) The executive council [~~board~~] shall complete the  
53-46 processing of a provisional license holder's application for a  
53-47 license not later than the 180th day after the date the provisional  
53-48 license is issued or the date licenses are issued after successful  
53-49 completion of the next licensing and jurisprudence examinations,  
53-50 whichever date is later.

53-51 (c) The executive council [~~board~~] may waive a license  
53-52 requirement for an applicant who is licensed or certified in  
53-53 another state if this state has entered into a reciprocity  
53-54 agreement with that state.

53-55 SECTION 2.105. Section 505.401(a-1), Occupations Code, is  
53-56 amended to read as follows:

53-57 (a-1) The executive council [~~board~~] by rule shall adopt a  
53-58 system under which licenses and orders of recognition of specialty  
53-59 expire on various dates during the year.

53-60 SECTION 2.106. Section 505.405, Occupations Code, is  
53-61 amended to read as follows:

53-62 Sec. 505.405. GROUNDS FOR REFUSING RENEWAL. The executive  
53-63 council [~~board~~] may refuse to renew the license of a person who  
53-64 fails to pay an administrative penalty imposed under Subchapter H,  
53-65 Chapter 507, [~~K~~] unless enforcement of the penalty is stayed or a  
53-66 court has ordered that the administrative penalty is not owed.

53-67 SECTION 2.107. The heading to Subchapter I, Chapter 505,  
53-68 Occupations Code, is amended to read as follows:

53-69 SUBCHAPTER I. [~~DENIAL OF LICENSE OR ORDER AND~~] DISCIPLINARY ACTION

## [PROCEDURES]

SECTION 2.108. Section 505.451, Occupations Code, is amended to read as follows:

Sec. 505.451. ~~GROUND~~ ~~FOR~~ ~~[DENIAL OF LICENSE OR ORDER OF RECOGNITION OF SPECIALTY,]~~ DISCIPLINARY ACTION. The executive council ~~[board]~~ shall take disciplinary action under Subchapter G, Chapter 507, against a person ~~[deny an application for a license or order of recognition of specialty and shall revoke or suspend, including a suspension on an emergency basis, a license or order, place a holder of a license or order that has been suspended on probation, refuse to renew a person's license, or reprimand a holder of a license or order]~~ for:

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

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

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

(4) engaging in unethical conduct;

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

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

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

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

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

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

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

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

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

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

SECTION 2.109. Section 505.454(a), Occupations Code, is amended to read as follows:

(a) A person who holds an expired license or order of recognition of specialty under this chapter is subject to a sanction under this chapter if the executive council ~~[board]~~ determines that the person violated this chapter or a rule adopted ~~[by the board]~~ under this chapter during the period in which the license or order was valid.

SECTION 2.110. Section 505.458, Occupations Code, is amended to read as follows:

Sec. 505.458. REFUND. (a) Subject to Subsection (b), the

55-1 executive council [~~board~~] may order a license holder to pay a refund  
55-2 to a consumer as provided in an agreement resulting from an informal  
55-3 settlement conference instead of or in addition to imposing an  
55-4 administrative penalty under this chapter.

55-5 (b) The amount of a refund ordered as provided in an  
55-6 agreement resulting from an informal settlement conference may not  
55-7 exceed the amount the consumer paid to the license holder for a  
55-8 service regulated by this chapter. The executive council [~~board~~]  
55-9 may not require payment of other damages or estimate harm in a  
55-10 refund order.

55-11 SECTION 2.111. Section 505.505, Occupations Code, is  
55-12 amended to read as follows:

55-13 Sec. 505.505. APPEAL BOND NOT REQUIRED. The executive  
55-14 council [~~board or department~~] is not required to post an appeal bond  
55-15 in any action arising under this chapter.

55-16 SECTION 2.112. Section 505.506, Occupations Code, is  
55-17 amended to read as follows:

55-18 Sec. 505.506. REPRESENTATION BY ATTORNEY GENERAL. The  
55-19 attorney general shall represent the executive council [~~board or~~  
55-20 ~~department~~] in an action brought to enforce this chapter.

55-21 SECTION 2.113. The following provisions of the Occupations  
55-22 Code are repealed:

- 55-23 (1) Section 501.002(3);
- 55-24 (2) Section 501.005;
- 55-25 (3) Subchapter C, Chapter 501;
- 55-26 (4) Sections 501.151(a) and (b);
- 55-27 (5) Section 501.152;
- 55-28 (6) Section 501.154;
- 55-29 (7) Section 501.156;
- 55-30 (8) Section 501.157;
- 55-31 (9) Section 501.160;
- 55-32 (10) Section 501.161;
- 55-33 (11) Section 501.162;
- 55-34 (12) Subchapter E, Chapter 501;
- 55-35 (13) Sections 501.252(b), (c), and (d);
- 55-36 (14) Section 501.254;
- 55-37 (15) Sections 501.256(e), (f), and (g);
- 55-38 (16) Section 501.2561;
- 55-39 (17) Section 501.257;
- 55-40 (18) Section 501.258;
- 55-41 (19) Section 501.261(b);
- 55-42 (20) Section 501.302;
- 55-43 (21) Section 501.303;
- 55-44 (22) Section 501.304;
- 55-45 (23) Section 501.402;
- 55-46 (24) Section 501.403;
- 55-47 (25) Section 501.404;
- 55-48 (26) Section 501.405;
- 55-49 (27) Section 501.406;
- 55-50 (28) Section 501.409;
- 55-51 (29) Section 501.410;
- 55-52 (30) Subchapter J, Chapter 501;
- 55-53 (31) Section 501.501;
- 55-54 (32) Section 501.502;
- 55-55 (33) Section 501.504;
- 55-56 (34) Section 502.002(3);
- 55-57 (35) Section 502.003;
- 55-58 (36) Subchapter C, Chapter 502;
- 55-59 (37) Section 502.152;
- 55-60 (38) Section 502.153;
- 55-61 (39) Section 502.154;
- 55-62 (40) Section 502.156;
- 55-63 (41) Section 502.1565;
- 55-64 (42) Section 502.157;
- 55-65 (43) Section 502.158;
- 55-66 (44) Section 502.161;
- 55-67 (45) Section 502.162;
- 55-68 (46) Section 502.163;
- 55-69 (47) Subchapter E, Chapter 502;

56-1	(48)	Section 502.255;
56-2	(49)	Section 502.256;
56-3	(50)	Sections 502.301(b), (c), (d), and (e);
56-4	(51)	Section 502.302;
56-5	(52)	Section 502.303;
56-6	(53)	Section 502.352;
56-7	(54)	Section 502.353;
56-8	(55)	Section 502.354;
56-9	(56)	Section 502.355;
56-10	(57)	Section 502.356;
56-11	(58)	Subchapter I, Chapter 502;
56-12	(59)	Section 502.451;
56-13	(60)	Section 502.452;
56-14	(61)	Section 502.453;
56-15	(62)	Section 502.455;
56-16	(63)	Section 503.005;
56-17	(64)	Subchapter D, Chapter 503;
56-18	(65)	Section 503.202;
56-19	(66)	Section 503.203;
56-20	(67)	Section 503.204;
56-21	(68)	Section 503.2045;
56-22	(69)	Section 503.205;
56-23	(70)	Section 503.207;
56-24	(71)	Section 503.209;
56-25	(72)	Section 503.210;
56-26	(73)	Section 503.211;
56-27	(74)	Subchapter F, Chapter 503;
56-28	(75)	Section 503.306;
56-29	(76)	Section 503.307;
56-30	(77)	Section 503.354;
56-31	(78)	Section 503.355;
56-32	(79)	Section 503.356;
56-33	(80)	Sections 503.401(b), (c), and (d);
56-34	(81)	Section 503.402;
56-35	(82)	Section 503.403;
56-36	(83)	Section 503.404;
56-37	(84)	Section 503.405;
56-38	(85)	Section 503.406;
56-39	(86)	Section 503.451;
56-40	(87)	Section 503.454;
56-41	(88)	Subchapter K, Chapter 503;
56-42	(89)	Section 505.005;
56-43	(90)	Section 505.110;
56-44	(91)	Subchapter C, Chapter 505;
56-45	(92)	Section 505.202;
56-46	(93)	Section 505.203;
56-47	(94)	Section 505.204;
56-48	(95)	Section 505.205;
56-49	(96)	Section 505.209;
56-50	(97)	Section 505.210;
56-51	(98)	Section 505.211;
56-52	(99)	Subchapter E, Chapter 505;
56-53	(100)	Section 505.355;
56-54	(101)	Section 505.356;
56-55	(102)	Section 505.402;
56-56	(103)	Section 505.403;
56-57	(104)	Section 505.404;
56-58	(105)	Section 505.452;
56-59	(106)	Section 505.453;
56-60	(107)	Section 505.454(b);
56-61	(108)	Section 505.455;
56-62	(109)	Section 505.456;
56-63	(110)	Section 505.457;
56-64	(111)	Section 505.501;
56-65	(112)	Section 505.503;
56-66	(113)	Section 505.504;
56-67	(114)	Section 505.508; and
56-68	(115)	Subchapter K, Chapter 505.
56-		



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;
- (5) Texas Board of Professional Engineers;
- (6) Texas Funeral Service Commission;
- (7) Texas Board of Professional Geoscientists;
- (8) Health and Human Services Commission [~~Department of State Health Services~~], except as provided by Section 411.110, and agencies attached to the commission [~~department, including:~~  
  - [~~(A) Texas State Board of Examiners of Marriage and Family Therapists;~~
  - [~~(B) Texas State Board of Examiners of Professional Counselors; and~~
  - [~~(C) Texas State Board of Social Worker Examiners~~];
- (9) Texas Board of Professional Land Surveying;
- (10) Texas Department of Licensing and Regulation, except as provided by Section 411.093;
- (11) Texas Commission on Environmental Quality;
- (12) Texas Board of Occupational Therapy Examiners;
- (13) Texas Optometry Board;
- (14) Texas State Board of Pharmacy;
- (15) Texas Board of Physical Therapy Examiners;
- (16) Texas State Board of Plumbing Examiners;
- (17) [~~Texas State Board of Podiatric Medical Examiners;~~
- [~~(18) Texas Behavioral Health Executive Council~~ [~~State Board of Examiners of Psychologists~~];
- (18) [~~(19)~~] Texas Real Estate Commission;
- (19) [~~(20)~~] Texas Department of Transportation;
- (20) [~~(21)~~] State Board of Veterinary Medical Examiners;
- (21) [~~(22)~~] Texas Department of Housing and Community Affairs;
- (22) [~~(23)~~] secretary of state;
- (23) [~~(24)~~] state fire marshal;
- (24) [~~(25)~~] Texas Education Agency;
- (25) [~~(26)~~] Department of Agriculture; and
- (26) [~~(27)~~] Texas Department of Motor Vehicles.

SECTION 3.003. Section 2054.2606(a), Government Code, is amended to read as follows:

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

- (1) Texas Board of Chiropractic Examiners, with

- 58-1 respect to chiropractors;
- 58-2 (2) Texas Department of Licensing and Regulation
- 58-3 [~~State Board of Podiatric Medical Examiners~~], with respect to
- 58-4 podiatrists;
- 58-5 (3) State Board of Dental Examiners, with respect to
- 58-6 dentists;
- 58-7 (4) Texas Optometry Board, with respect to
- 58-8 optometrists and therapeutic optometrists;
- 58-9 (5) Texas Board of Physical Therapy Examiners, with
- 58-10 respect to physical therapists and physical therapy facilities;
- 58-11 (6) Texas Board of Occupational Therapy Examiners,
- 58-12 with respect to occupational therapists and occupational therapy
- 58-13 facilities;
- 58-14 (7) Texas Behavioral Health Executive Council [~~State~~
- 58-15 ~~Board of Examiners of Psychologists~~], with respect to
- 58-16 psychologists; and
- 58-17 (8) Texas State Board of Pharmacy, with respect to
- 58-18 pharmacists and pharmacies.

58-19 SECTION 3.004. Section 2054.352(a), Government Code, is

58-20 amended to read as follows:

58-21 (a) The following licensing entities shall participate in

58-22 the system established under Section 2054.353:

- 58-23 (1) Texas Board of Chiropractic Examiners;
- 58-24 (2) Judicial Branch Certification Commission;
- 58-25 (3) State Board of Dental Examiners;
- 58-26 (4) Texas Funeral Service Commission;
- 58-27 (5) Texas Board of Professional Land Surveying;
- 58-28 (6) Texas Medical Board;
- 58-29 (7) Texas Board of Nursing;
- 58-30 (8) Texas Optometry Board;
- 58-31 (9) Department of Agriculture, for licenses issued
- 58-32 under Chapter 1951, Occupations Code;
- 58-33 (10) Texas State Board of Pharmacy;
- 58-34 (11) Executive Council of Physical Therapy and
- 58-35 Occupational Therapy Examiners;
- 58-36 (12) Texas State Board of Plumbing Examiners;
- 58-37 (13) [~~Texas State Board of Podiatric Medical~~
- 58-38 ~~Examiners~~;
- 58-39 [~~(14)~~] Texas Behavioral Health Executive Council
- 58-40 [~~State Board of Examiners of Psychologists~~];
- 58-41 (14) [~~(15)~~] State Board of Veterinary Medical
- 58-42 Examiners;
- 58-43 (15) [~~(16)~~] Texas Real Estate Commission;
- 58-44 (16) [~~(17)~~] Texas Appraiser Licensing and
- 58-45 Certification Board;
- 58-46 (17) [~~(18)~~] Texas Department of Licensing and
- 58-47 Regulation;
- 58-48 (18) [~~(19)~~] Texas State Board of Public Accountancy;
- 58-49 (19) [~~(20)~~] State Board for Educator Certification;
- 58-50 (20) [~~(21)~~] Texas Board of Professional Engineers;
- 58-51 (21) Health and Human Services Commission
- 58-52 [~~(22) Department of State Health Services~~];
- 58-53 (22) [~~(23)~~] Texas Board of Architectural Examiners;
- 58-54 (23) [~~(24)~~] Texas Racing Commission;
- 58-55 (24) [~~(25)~~] Texas Commission on Law Enforcement; and
- 58-56 (25) [~~(26)~~] Texas Private Security Board.

58-57 SECTION 3.005. Section 36.132(a)(2), Human Resources Code,

58-58 is amended to read as follows:

- 58-59 (2) "Licensing authority" means:
- 58-60 (A) the Texas Medical Board;
- 58-61 (B) the State Board of Dental Examiners;
- 58-62 (C) the Texas Behavioral Health Executive
- 58-63 Council [~~State Board of Examiners of Psychologists~~];
- 58-64 (D) [~~the Texas State Board of Social Worker~~
- 58-65 ~~Examiners~~;
- 58-66 [~~(E)~~] the Texas Board of Nursing;
- 58-67 (E) [~~(F)~~] the Texas Board of Physical Therapy
- 58-68 Examiners;
- 58-69 (F) [~~(G)~~] the Texas Board of Occupational

59-1 Therapy Examiners; or  
 59-2 (G) [~~(H)~~] another state agency authorized to  
 59-3 regulate a provider who receives or is eligible to receive payment  
 59-4 for a health care service under the Medicaid program.

59-5 SECTION 3.006. Sections 1451.001(9), (10), (11), (18), and  
 59-6 (19), Insurance Code, are amended to read as follows:

59-7 (9) "Licensed clinical social worker" means an  
 59-8 individual licensed [~~by the Texas State Board of Social Worker~~  
 59-9 ~~Examiners~~] as a [~~licensed~~] clinical social worker under Chapter  
 59-10 505, Occupations Code.

59-11 (10) "Licensed professional counselor" means an  
 59-12 individual licensed under Chapter 503, Occupations Code [~~by the~~  
 59-13 ~~Texas State Board of Examiners of Professional Counselors~~].

59-14 (11) "Marriage and family therapist" means an  
 59-15 individual licensed under Chapter 502, Occupations Code [~~by the~~  
 59-16 ~~Texas State Board of Examiners of Marriage and Family Therapists~~].

59-17 (18) "Psychological associate" means an individual  
 59-18 licensed as a psychological associate by the Texas Behavioral  
 59-19 Health Executive Council [~~State Board of Examiners of Psychologists~~  
 59-20 ~~who practices solely under the supervision of a licensed~~  
 59-21 ~~psychologist~~].

59-22 (19) "Psychologist" means an individual licensed as a  
 59-23 psychologist by the Texas Behavioral Health Executive Council  
 59-24 [~~State Board of Examiners of Psychologists~~].

59-25 SECTION 3.007. Section 101.002, Occupations Code, is  
 59-26 amended to read as follows:

59-27 Sec. 101.002. COMPOSITION OF COUNCIL. The council consists  
 59-28 of 13 [~~14~~] members, with one member appointed by each of the  
 59-29 following:

59-30 (1) the Texas Board of Chiropractic Examiners;  
 59-31 (2) the State Board of Dental Examiners;  
 59-32 (3) the Texas Optometry Board;  
 59-33 (4) the Texas State Board of Pharmacy;  
 59-34 (5) [~~the Texas State Board of Podiatric Medical~~  
 59-35 ~~Examiners;~~

59-36 [~~(6)~~] the State Board of Veterinary Medical Examiners;  
 59-37 (6) [~~(7)~~] the Texas Medical Board;  
 59-38 (7) [~~(8)~~] the Texas Board of Nursing;  
 59-39 (8) [~~(9)~~] the Texas Behavioral Health Executive  
 59-40 Council [~~State Board of Examiners of Psychologists~~];

59-41 (9) [~~(10)~~] the Texas Funeral Service Commission;  
 59-42 (10) [~~(11)~~] the entity that regulates the practice of  
 59-43 physical therapy;

59-44 (11) [~~(12)~~] the entity that regulates the practice of  
 59-45 occupational therapy;

59-46 (12) [~~(13)~~] the health licensing division of the  
 59-47 Health and Human Services Commission [~~Department of State Health~~  
 59-48 ~~Services~~]; and

59-49 (13) [~~(14)~~] the governor's office.

59-50 SECTION 3.008. Section 110.001(7), Occupations Code, is  
 59-51 amended to read as follows:

59-52 (7) "Sex offender treatment provider" means a person,  
 59-53 licensed by the council and recognized based on training and  
 59-54 experience to provide assessment and treatment to adult sex  
 59-55 offenders or juveniles with sexual behavioral problems who have  
 59-56 been convicted, adjudicated, awarded deferred adjudication, or  
 59-57 referred by a state agency or a court, and licensed in this state to  
 59-58 practice as a physician, psychiatrist, psychologist, psychological  
 59-59 associate, provisionally licensed psychologist, licensed  
 59-60 professional counselor, licensed professional counselor intern,  
 59-61 licensed marriage and family therapist, licensed marriage and  
 59-62 family associate, licensed clinical social worker, licensed master  
 59-63 social worker under a clinical supervision plan approved by the  
 59-64 Texas Behavioral Health Executive Council [~~State Board of Social~~  
 59-65 ~~Worker Examiners~~], or advanced practice nurse recognized as a  
 59-66 psychiatric clinical nurse specialist or psychiatric mental health  
 59-67 nurse practitioner, who provides mental health or medical services  
 59-68 for rehabilitation of sex offenders.

59-

## ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

## SECTION 4.001. In this article:

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

(2) "Transferring entity" means:

- (A) the Texas State Board of Examiners of Psychologists;
- (B) the Texas State Board of Examiners of Marriage and Family Therapists;
- (C) the Texas State Board of Examiners of Professional Counselors; and
- (D) the Texas State Board of Social Worker Examiners.

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

(b) A member of a board who, before the effective date of this Act, completed the training program required by Section 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the applicable law existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training program required by Section 501.059, 502.059, 503.110, or 505.109, Occupations Code, as applicable. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December 1, 2019, until the member completes the additional training.

SECTION 4.003. (a) Section 501.2525, Occupations Code, as redesignated and amended by this Act, applies only to an application for a license under Chapter 501, Occupations Code, that is submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

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

(c) Section 502.252, Occupations Code, as amended by this Act, applies only to an application for a license under Chapter 502, Occupations Code, submitted on or after the date on which rules adopted by the Texas Behavioral Health Executive Council under that section take effect. An application submitted before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4.004. Not later than August 31, 2020, an initial member of the executive council shall complete the training required by Section 507.059, Occupations Code, as added by this Act. On or after September 1, 2020, a member of the executive council may not vote, deliberate, or be counted as a member in attendance at a meeting of the executive council until the member has completed the training required by that section.

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

(b) Notwithstanding the terms established by Section 507.054, Occupations Code, as added by this Act, in making the initial appointments to the executive council, the Texas State Board of Examiners of Psychologists, the Texas State 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 shall each appoint one member to a term expiring February 1, 2021, and one member to a term expiring February 1, 2022.

SECTION 4.006. (a) The Texas Behavioral Health Incubation

61-1 Task Force is established to assist in the establishment of and  
61-2 transfer of regulatory programs to the executive council under this  
61-3 Act by providing guidance to:

- 61-4 (1) the executive council regarding:  
61-5 (A) hiring the executive director of the  
61-6 executive council;  
61-7 (B) developing functional alignments within the  
61-8 organizational structure of the executive council;  
61-9 (C) establishing any necessary accounts and  
61-10 reporting requirements; and  
61-11 (D) seeking input from interested parties  
61-12 throughout the transfer; and  
61-13 (2) the transferring entities and the executive  
61-14 council regarding:  
61-15 (A) the efficient transfer of necessary data; and  
61-16 (B) the revision of existing rules to align with  
61-17 the administrative structure of the executive council.

- 61-18 (b) The task force is composed of:  
61-19 (1) the executive commissioner of the Health and Human  
61-20 Services Commission, or the executive commissioner's designee;  
61-21 (2) the executive director of the Texas Department of  
61-22 Licensing and Regulation, or the executive director's designee;  
61-23 (3) the executive director of the Texas State Board of  
61-24 Examiners of Psychologists;  
61-25 (4) a representative of the Texas State Board of  
61-26 Examiners of Marriage and Family Therapists;  
61-27 (5) a representative of the Texas State Board of  
61-28 Examiners of Professional Counselors; and  
61-29 (6) a representative of the Texas State Board of  
61-30 Social Worker Examiners.

61-31 (c) The entities represented on the task force may adopt a  
61-32 memorandum of understanding to accomplish the responsibilities and  
61-33 duties of the task force and to ensure access by the entities of any  
61-34 systems and information necessary to effectively transfer the  
61-35 regulatory programs to the executive council under this Act.

61-36 SECTION 4.007. (a) Not later than April 1, 2020, the  
61-37 executive council shall hire an executive director for the  
61-38 executive council.

61-39 (b) Not later than July 31, 2020, the executive council  
61-40 shall adopt procedural rules necessary to implement Chapter 507,  
61-41 Occupations Code, as added by this Act.

61-42 SECTION 4.008. (a) As soon as practicable after the  
61-43 appointment of the members of the executive council, the executive  
61-44 council and the transferring entities shall adopt a transition plan  
61-45 to provide for the orderly transfer of powers, duties, functions,  
61-46 programs, and activities under this Act. The transition plan must  
61-47 provide for the transfer of each regulatory program to be  
61-48 completed on or before August 31, 2020.

61-49 (b) The transferring entities shall provide the executive  
61-50 council with access to any systems or information necessary for the  
61-51 executive council to accept a program transferred under this Act.

61-52 (c) On the date specified in the transition plan required  
61-53 under Subsection (a) of this section for the transfer of a  
61-54 particular program to the executive council, all full-time  
61-55 equivalent employee positions at a transferring entity that  
61-56 primarily concern the administration or enforcement of the program  
61-57 being transferred become positions at the executive council. The  
61-58 executive council shall post the positions for hiring and, when  
61-59 filling the positions, shall give consideration to, but is not  
61-60 required to hire, an applicant who, immediately before the date of  
61-61 the transfer, was an employee at a transferring entity primarily  
61-62 involved in administering or enforcing the transferred program.

61-63 SECTION 4.009. On the date specified in the transition plan  
61-64 required under Section 4.008(a) of this article for the transfer of  
61-65 a particular program to the executive council:

- 61-66 (1) a rule or fee relating to a transferred program  
61-67 that is in effect on that date remains in effect until changed by  
61-68 the executive council;  
61-69 (2) a license, registration, certification, or other

62-1 authorization relating to a transferred program that is in effect  
62-2 on that date is continued in effect as a license, registration,  
62-3 certification, or other authorization of the executive council; and  
62-4 (3) a complaint, investigation, contested case, or  
62-5 other proceeding relating to a transferred program that is pending  
62-6 before a transferring entity on that date is transferred without  
62-7 change in status to the executive council.

62-8 SECTION 4.010. Section 507.154, Occupations Code, as added  
62-9 by this Act, does not prohibit the appropriation of money to the  
62-10 Behavioral Health Executive Council, as created by this Act, for  
62-11 the state fiscal year ending August 31, 2020.

62-12 SECTION 4.011. To the extent of any conflict, this Act  
62-13 prevails over another Act of the 86th Legislature, Regular Session,  
62-14 2019, relating to nonsubstantive additions to and corrections in  
62-15 enacted codes.

62-16 SECTION 4.012. This Act takes effect September 1, 2019.

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