TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

EXECUTIVE DIRECTOR
Darrel D. Spinks

MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Dr.h.c. Sarah Abraham
John K. Bielamowicz
Timothy M. Brown, M.S.W.
Steve Christopherson, M.S.
Susan Fletcher, Ph.D.
George Francis, IV, M.B.A.
Ben Morris, M.Ed.
Jennifer Smothermon, M.A.

Texas Behavioral Health Executive Council Meeting Agenda
August 28, 2020, 9am

Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the August 28, 2020 meeting of the Texas Behavioral Health Executive Council will be held by videoconference call, as authorized under Texas Government Code section 551.127. There will be no physical meeting location open to the public so long as the disaster declaration is in effect.

Members of the public will have access and a means to participate in this meeting, by two-way communication, by entering the URL address https://zoom.us/j/98550372415 into their web browser or by calling (346) 248-7799 and entering the webinar ID 985 5037 2415. Additional telephone numbers and videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at www.bhec.texas.gov prior to the meeting. A recording of the meeting will be available after the meeting is adjourned. To obtain a recording, please submit a request to Open.Records@tsbep.texas.gov.

For public participants, once the public comment item is reached on the agenda after the meeting convenes, the presiding officer will ask those joining by computer to use the "raise hand" feature to indicate who would like to make a public comment. Those individuals who raise their hand will then be unmuted to give public comment. Once all of the individuals with raised hands have been given an opportunity to make public comment, the individuals appearing by telephone will be unmuted and asked whether they would like to make a public comment. When making a public comment, please identify yourself and whether you are speaking individually or on behalf of an organization. All public comments will be limited to 3 minutes, unless otherwise directed by the presiding officer. In lieu of providing public comment during the meeting, you may submit written public comments via email to Executive.Director@tsbep.texas.gov in advance of the meeting. The written public comments received will be submitted to the council members for their consideration during the meeting, but will not be read aloud.

In the event Governor Greg Abbott's March 13, 2020 disaster declaration is not renewed or expires prior to August 28th, then pursuant to Tex. Gov't Code Ann. §551.127, notice is hereby given that one or more Council members may appear at the scheduled meeting via videoconference call, but the presiding officer will be physically present at 333 Guadalupe St., Ste. 2-450E, Austin, Texas 78701. This location will be open to the public only in the event the March 13th disaster declaration is not renewed.

Please note that the Council may request input during the meeting from any interested parties or members of the public during its discussion of an agenda item.

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Council at least 5 working days before the meeting date. Phone: (512) 305-7700,

FAX: (512) 305-7701, E-MAIL: Executive.Director@tsbep.texas.gov, TTY/RELAY TEXAS: 711 or 1-800-RELAY TX.

The Council may go into Executive Session to deliberate any item listed on this agenda if authorized under Texas Open Meetings Act, Government Code, Ch. 551.

The Council may discuss and take action concerning any matter on the agenda and in a different order from what it appears herein.

NOTES:

- There may be a quorum of the members from each of the following boards present at the Texas Behavioral Health Executive Council meeting: the Texas State Board of Examiners of Psychologists; the Texas State Board of Social Worker Examiners; the Texas State Board of Examiners of Marriage and Family Therapists; and the Texas State Board of Examiners of Professional Counselors.

Council Meeting Agenda for August 28, 2020 at 9:00am

1. Call to Order

2. Roll Call and Certification of Quorum

3. Public Comments – Public Comment is limited to three (3) minutes per person, unless otherwise directed by the presiding officer.

4. Review and approval of minutes from prior meeting(s).

5. Review sample status report on complaints.

6. Discussion regarding possible solutions to TSBSWE licensing backlog, including whether to move forward with negotiations with ASWB on processing social worker applications for examination approval through the ASWB licensing portal.

    a. Report from Executive Director regarding alternative vendors to ASWB, as well as past experience with ASWB by other jurisdictions currently utilizing the ASWB licensing portal.

7. Discussion regarding 1)the need for renewal certificates/permits given the availability of the same information through the public search feature of the online licensing system, 2)the potential cost savings if the agency stops issuing renewal certificates/permits, and 3)the increased risk of forgery or misappropriation associated with printed renewal certificates/permits.

8. Report from Executive Director:

    a. Update on agency operations and the transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff.

b. Letter to LBB requesting UB authority, dated August 10, 2020.

c. New policy analyst has been assigned to the Council by the OOG Budget and Policy Division

9. Rulemaking - Texas Behavioral Health Executive Council

   a. Review and consideration of proposed rule change to 22 TAC 881.21, Petition for Rulemaking.

   b. Review and consideration of proposed rule change to 22 TAC 883.1, Renewal of a License *(Discussion to be led by Councilwoman Smothermon)*
      i. Discussion and consideration regarding whether to allow for an extension of active status for licensees unable to complete continuing education during their renewal period due to extraordinary circumstances.

10. Rulemaking - Texas State Board of Examiners of Marriage and Family Therapists:

    a. Consideration and possible adoption of rule changes to 22 TAC, Part 35, Chapter 801, as recommended by the Texas State Board of Examiners of Marriage and Family Therapists. The rule changes being considered for adoption were published in the July 10, 2020 edition of the Texas Register and public comments were received following publication.
       i. *These rules have been reviewed by the OOG's Budget and Policy Division, and the board is recommending adoption of these rules with the changes suggested by the OOG .*
       ii. *Proposed 22 TAC 801.204 has been reviewed by the OOG's Budget and Policy Division and the board is recommending withdrawal of the rule due to the need for substantive changes.*
       iii. *Proposed 22 TAC 801.58 has been reviewed by the OOG's Regulatory Compliance Division and disapproved in part; the board is recommending adoption of the rule with changes acceptable to the OOG's Regulatory Compliance Division.*

    b. Review and proposal of rule change to 22 TAC 801.204, Licensing of Military Service Members, Military Veterans, and Military Spouses.
       i. *Following withdrawal of the original version of this rule published in the July 10, 2020 edition of the Texas Register, the board recommends reproposal of the rule with substantive changes acceptable to the OOG's Budget and Policy Division.*

    c. Review and proposal of new rule 22 TAC 801.206, Licensing of Persons with Criminal Convictions.
       i. *This rule is a revised version of the same rule returned to the board for further review and consideration by the Council at its June 16th meeting.*
       ii. *This rule has been reviewed and approved by the OOG's Budget and Policy Division.*

    d. Review and proposal of rule change to 22 TAC 801.305, Schedule of Sanctions.

i. *If approved by the Council, this proposed change would not be published in the Texas Register until the adoption of the same rule (but different version) under paragraph (a) becomes effective.*

11. Rulemaking - Texas State Board of Examiners of Psychologists:

    a. Consideration and possible adoption of rule changes to 22 TAC, Part 21, as recommended by the Texas State Board of Examiners of Psychologists. The rule changes being considered for adoption were published in the July 10, 2020 edition of the Texas Register and public comments were received following publication.
       i. *These rules have not been reviewed by the OOG's Budget and Policy Division at the time of publication of this agenda and may not be adopted unless approved prior to the meeting.*

12. Rulemaking - Texas State Board of Examiners of Professional Counselors:

    There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes published in the July 17, 2020 edition of the Texas Register have not yet been reviewed by the OOG's Budget and Policy Division and the board has not met to consider the public comments received or make recommendations in accordance with 22 TAC 881.20.

13. Rulemaking - Texas State Board of Social Worker Examiners:

    There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes published in the July 17, 2020 edition of the Texas Register have not yet been reviewed by the OOG's Budget and Policy Division and the board has not met to consider the public comments received or make recommendations in accordance with 22 TAC 881.20.

14. Report from ad hoc Fees Committee.

15. Discussion concerning the potential impact the COVID-19 pandemic may have on future council and board meetings.

16. Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions.

17. Recommendations for agenda items for the next Council meeting

18. Adjournment

Addendum: Additional Videoconference and Telephone Conference Call Information

When: Aug 28, 2020 09:00 AM Central Time (US and Canada)
Topic: Texas Behavioral Health Executive Council August 28, 2020 Meeting

Please click the link below to join the webinar:
https://zoom.us/j/98550372415
Or iPhone one-tap :
US: +13462487799,,98550372415# or +16699009128,,98550372415#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799
Webinar ID: 985 5037 2415
International numbers available: https://zoom.us/u/abxnx87sZv

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL MEETING
SUMMARY OF MINUTES
June 16, 2020

Council member Jennifer Smothermon acting as Presiding Officer called the meeting of the Texas Behavioral Health Executive Council to order at 9:05 a.m.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 2, Roll Call and Certification of Quorum. Council members Sarah Abraham, John Bielamowicz, Timothy Brown, Steve Christopherson, Dr. Susan Fletcher, George Francis, Ben Morris and Jennifer Smothermon were present. Chair Gloria Canseco was absent. A quorum was seated. Council member Sarah Abraham, seconded by George Francis, made a motion to excuse the absence of Gloria Canseco. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 3, Public Comments. The Council heard public comment from Dr. Edward Silverman, Harmony Stewart, Andrew Brams, Jan Friese, Dr. Carol Grothues, Christy Bradshaw, Alyssa Karsagi, Jim Craig, Wanda Patrick, Dr. Aaron Robb, Susan Rankin Wittington, Stephanie Gipson, Elizabeth Vecseri, Miriam Grinshtein, Victoria Harvey, Krista Weinstein, Adrienne Tinder, Allison Mohr Bolware, Tammi Axelson, Michael Simpson, Peggy Wright, Kasem Mia Hetsroni, Diana Friedman, Lynn Kamin, Michelle Vecseri, Bonny Cotlar, Tara Coronado, Ben Albritton, and Hannah Faulkenberg. Council member Jennifer Smothermon acting as Presiding Officer read a statement from Chair Gloria Canseco.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 4, Review and approval of minutes from prior meetings, held on March 2, 2020. Council member George Francis, seconded by Timothy Brown, made a motion to accept the minutes with one correction to the list of Strategic Planning Committee members, changing from Chair Gloria Conseco to Jennifer Smothermon. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 5, Review and approval of Strategic Plan for 2021-2025. Executive Director Darrel Spinks presented the Strategic Plan. Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to approve the Strategic Plan as presented. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 6, Review sample status reports on complaints and discuss standardization of those reports. Executive Director Darrel Spinks provided a sample of reports for the Council's review. Council members discussed a baseline of reports and styles that will be provided to the Council. Council member Jennifer Smothermon recommended reviewing the reports that the member boards are currently receiving such as processing time and standard procedure. Executive Director Darrel Spinks will leave this item on the next agenda and provide another sample report at the next meeting.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 7, Report from Executive Director on: Update on agency operations and the transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff; Status reports on application processing times; and Letter from Governor Abbott, et al, dated May 20, 2020, requesting agency plan for 5% budget cuts for the current biennium, together with the agency's response.

Executive Director Darrel Spinks provided a report on the status of upper level hiring and plans to fill vacant positions starting in July. Mr. Spinks reported on the possible changes in the IT support needs and possibility to form an agreement with HHSC to provide some IT services. Mr. Spinks reported that the data base transition plan is running smoothly and the Facilities Commission has provided space in the Hobby Building in Tower 2 for the Enforcement Division and Tower 3 on the 9th floor for the rest of the office. Staff has purchased the computers and office equipment and will begin purchasing furniture. The Public Accountancy Board and the Architecture Board left its office furniture which staff is taking advantage of. Mr. Spinks shared his screen and provided a tour of the new Council website which should go live within 30 days. Council member George Francis complimented the efforts of Mr. Spinks on the development of the website, recommended adding a link to the status reports that the Council will review, and recommended keeping the format of the website for ease of use on mobile devices. Mr. Spinks reported that all other transition plan tasks are on schedule. Mr. Francis asked Mr. Spinks about addressing a future possible budget cut and staffing in advance of a budget cut.

Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to reccess the meeting until 12:30 p.m. Council member Jennifer Smothermon acting as Presiding Officer recessed the meeting.

Council member Jennifer Smothermon acting as Presiding Officer called the meeting back to order at 12:35 p.m. Roll call revealed that all members returned to the meeting except Sarah Abraham who joined at 12:39 p.m.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8a., Rulemaking: Review of public comments received and changes suggested to the Council's proposed rules by the Office of the Governor, Budget and Policy Division; Adoption of Council proposed rules under 22 TAC Chapters 881 – 885, related to general provisions, applications and licensing, renewals, complaints and enforcement, and fees. Executive Director Darrel Spinks detailed the rule revisions made in response to the Governor's changes and the comments received. Council members discussed the changes and Council member Steve Christopherson made a recommendation to change Sections 881.21(d) and 882.9(a). Council recommended keeping a list of rules to revisit at a later meeting, and no changes were made to these two sections. Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to adopt the rules with the recommended changes. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8b., Rulemaking: Proposed change to fee chart found in Council proposed rule 22 TAC §885.1. Council member Timothy Brown recommended a change to the fee chart due to the elimination of the LMSW-AP/LCSW license. Executive Director Darrel Spinks detailed the revisions made to the fee chart in response to the comments received. Council member George Francis, seconded by Sarah Abraham, made a motion to adopt the changes to the fee chart including the changes recommended by Executive Director Spinks and Council member Brown and including the $500 reinstatement fee. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8c., Rulemaking: Review and proposal of rule changes to 22 TAC, Part 30, Chapter 681, Texas State Board of Examiners of Professional Counselors rules. Executive Director Darrel Spinks detailed the rules

and noted that the Texas State Board of Examiners of Professional Counselors recommended a proposed change under §681.92 regarding the experience of out-of-state license holders applying for a Texas license. Mr. Spinks recommended sending this proposed change back to the Board for additional study. Council member Steve Christopherson, seconded by George Francis, made a motion to accept the rule changes as proposed, without the change regarding the experience of out-of-state license holders under §681.92, which was referred back to Texas State Board of Examiners of Professional Counselors. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8d., Rulemaking: Review and proposal of rule changes to 22 TAC, Part 21, Texas State Board of Examiners of Psychologists rules. Executive Director Darrel Spinks had no recommended changes or comments to discuss. Council member John Bielamowicz, seconded by Timothy Brown, made a motion to accept the rule changes as proposed. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8e., Rulemaking: Review and proposal of rule changes to 22 TAC, Part 34, Chapter 781, Texas State Board of Social Worker Examiners rules. Executive Director Darrel Spinks had no recommended changes or comments to discuss. Council member Steve Christopherson, seconded by George Francis, made a motion to accept the rule changes as proposed. Motion passed by unanimous vote.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 8f., Rulemaking: Review and proposal of rule changes to 22 TAC, Part 35, Chapter 801, Texas State Board of Examiners of Marriage and Family Therapists rules. Executive Director Darrel Spinks outlined the rules and noted Section 801.58(c) is duplicated in the Council rules and should be removed. Section 801.58(d) is under anti-competition review by the Governor's Office. Council members discussed Section 801.206 regarding "directly related" crimes that prohibit licensure. Council member George Francis, seconded by Sarah Abraham, made a motion to accept the rule changes as proposed, without Section 801.206, which was referred back to the Texas State Board of Examiners of Marriage and Family Therapists. Motion passed by a vote of 7 - 1, with Council member Ben Morris opposed.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 9, Review methodology for calculating fees; discussion regarding establishment of ad hoc committee to study possible changes to Council fees. Executive Director Darrel Spinks summarized the fee structure. Council member George Francis recommended forming the ad hoc committee to create an equitable fee structure. The ad hoc committee members are John Bielamowicz, Timothy Brown, George Francis, and Jennifer Smothermon.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 10, Discussion concerning the potential impact the COVID-19 pandemic and potential budget cuts may have on future council and board meetings. Council member George Francis questioned the effects of the pandemic on workflow and possible backlogs. Council discussed a backlog at the Social Work Board. Council member George Francis recommended staff develop an online process for renewals going forward; develop a timeline for addressing the backlog; develop a plan in case there is a second closure; and report back to the Council in three weeks. The Council recommended a communication plan to notify the stake holders of the plans to address the backlog.

Council member Jennifer Smothermon acting as Presiding Officer recessed the Council meeting for a brief break and called the meeting back to order at 3:00 p.m. A quorum was present.

The Council continued the discussion of item 10. Mr. Spinks polled the Council on in-person meetings versus virtual meetings. Council will hold its August meeting via Zoom conference call. Council members discussed the impact of a 5% budget reduction on the agency and the need to be develop a plan for meeting the budget reductions. The Council members discussed portability of the office; planning for the second wave of the pandemic; and Department of State Health Services and Health and Human Services Commission systems interface related to the transfer of the programs to Texas Behavioral Health Executive Council.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 11, Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions.

- Texas State Board of Examiners of Psychologists is responding to the mental health crisis related to the pandemic and other world events and requests the next steps for the rules.
- Texas State Board of Examiners of Licensed Professional Counselors is excited to be working together and moving forward on the rules and appreciates the Council's support.
- Texas State Board of Social Worker Examiners is addressing concerns with the backlog in licensing as discussed earlier and is thankful for assistance from staff.
- Texas State Board of Examiners of Marriage and Family Therapists is thankful for the Council's support and the rule review assistance from staff. In response to the request during the Member Board Reports, Executive Director Darrel Spinks explained the rulemaking process going forward for the individual boards' rules.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 12, Recommendations for agenda items for the next Council meeting. The Council requested the following items be added to the agenda for the August 2020 meeting: review sample status reports on complaints and discuss standardization of those reports; discuss the effects of the pandemic on the Council; report from the Ad Hoc Fee Committee; and possible adoption of the Marriage and Family Therapist proposed rules. Council members agreed to continue to meet via ZOOM conference call. There will be a meeting before the August 2020 meeting to discuss the plan under item 10.

Council member Jennifer Smothermon acting as Presiding Officer moved to item 13, Adjournment. Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to adjourn the meeting. Motion passes. Council member Jennifer Smothermon acting as Presiding Officer adjourned the meeting at 3:46 p.m.

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Gloria Canseco, Presiding Officer
Texas Behavioral Health Executive Council

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL MEETING
SUMMARY OF MINUTES
July 28, 2020

Chair Gloria Canseco called the meeting of the Texas Behavioral Health Executive Council to order at 11:31 a.m.

Chair Gloria Canseco moved to item 2, Roll Call and Certification of Quorum. Chair Gloria Canseco and Council members Sarah Abraham, John Bielamowicz, Steve Christopherson, Dr. Susan Fletcher, George Francis, Ben Morris, and Jennifer Smothermon were present. Timothy Brown was absent. A quorum was seated.

Chair Gloria Canseco moved item 3, Public Comment to the end of the meeting.

Chair Gloria Canseco moved to item 4, Report from Executive Director on proposed plan to address each of the following: (a) Revising the application/licensing process to avoid future backlogs; (b) Addressing the current backlog of social work licensing applications; and (c) Planning for a possible second round of stay-at-home orders resulting from a resurgence of COVID-19.

Executive Director Darrel Spinks provided background information and an overview of the draft proposed plan. Executive Director Spinks reminded the Council that at the last meeting Timothy Brown, Chair of the Texas State Board of Social Worker Examiners, raised a concern regarding the current licensing backlog at the Texas State Board of Social Worker Examiners. At the Council's direction, Executive Director Spinks drafted a plan to address three areas of concern. Executive Director Spinks worked with the Health and Human Services Commission (HHSC)-PLCU staff to develop the draft plan that identifies significant problems, contributing factors, and possible solutions. Executive Director Spinks explained that the draft plan provided to the Council is a high-level plan and a living document.

Executive Director Spinks provided information and answered questions regarding revising the application/licensing process to avoid future backlogs (item 4a) and addressing the current backlog of social work licensing applications (item 4b). Regarding avoiding future backlogs, Executive Director Spinks discussed a possible option to outsource the licensing processes going forward and stated that there will be a presentation from ASWB later in the meeting. Executive Director Spinks also discussed staffing issues and streamlined licensing processes if an outsourcing option is not used by TBHEC. Executive Director Spinks answered questions from Council member Jennifer Smothermon regarding the hiring of staff at TBHEC and possible budget cuts. Executive Director Spinks stated he had not received the instructions yet for the Legislative Appropriations Request (LAR), but he cautioned the Council regarding anticipated reductions in appropriations.

Regarding the current backlog with the social work licensing applications, Executive Director Spinks explained that the Council is limited in the actions it can take to address the current backlog at this time, since it lacks authority prior to the transition. Executive Director Spinks noted the actions taken with the HHSC-PLCU staff to address the current backlog, HHSC has authorized the use of temporary employees to assist staff, authorized weekend overtime, and eased restrictions on office access due to COVID-19 in order to address the current backlog. Executive Director

Spinks answered questions from Council member Sarah Abraham regarding the status of these steps and whether there have been any improvements. Executive Director Spinks provided licensing information from the HHSC-PLCU staff to the Council showing that the current backlog has been reduced since the last Council meeting in June 2020. Executive Director Spinks anticipates that if the HHSC-PLCU staff continue to work at the current rate, barring any unexpected events, they will be able to reduce or eliminate the current backlog by the time of transition on September 1, 2020. Executive Director Spinks answered questions from Council member George Francis about what steps are being taken to change the process to address the backlog, and he noted the upcoming presentation by ASWB.

Executive Director Spinks provided information and answered questions regarding planning for a possible second round of stay-at-home orders resulting from a resurgence of COVID-19 (item 4c). Executive Director Spinks reported that Council staff will be equipped with laptops and outbound servers and storage, and that staff will maximize their ability to work from home through a cloud-based file system and VPN access. Executive Director Spinks explained the efforts of the HHSC-PLCU staff in developing processes and a system for handling licensing applications remotely, and he addressed handling enforcement cases remotely. Executive Director Spinks also stated the ability to work remotely is a job perk for new hires and staff retention. Executive Director Spinks answered questions from Council member George Francis on the obstacles to working from home and on the steps being taken to move away from a paper driven application process. Executive Director Spinks expressed the need for a completely online licensing application system that will allow work to continue while working from home. Executive Director Spinks reported that staff have started working with the database staff to move away from paper applications and to maximize the use of the licensing database; however, the focus and efforts to move toward a completely online licensing application system will be in the Spring of next year, after the Council becomes operational on September 1, 2020. The Council discussed communication and outreach plans regarding the current and future online licensing processes. Executive Director Spinks addressed questions from Council member John Bielamowicz regarding the physical office space for the Council staff in the short-term prior to moving to the new, permanent location.

Council member Timothy Brown joined the meeting.

Chair Gloria Canseco moved to item 5, Presentation from ASWB on processing applications for examination approval through the ASWB licensing portal. Executive Director Darrel Spinks introduced Dave Ryczko of the Association of Social Work Boards (ASWB). Mr. Ryczko introduced members of his team and outlined the ASWB proposed solution to address the Texas State Board of Social Worker Examiners backlog and timeline to get the program up and running if approved. Robert Adach of ASWB shared some of the features and functions of the software from the applicant user's experience and from the staff application processing experience. Mr. Adach pointed out safety features and system encryption of social security numbers, log-in tracking, and secure payment processing. Mr. Adach highlighted the ability for configuration of the system to the Council's needs.

ASWB representatives Dave Ryczko, Robert Adach, and Jennifer Henkel answered questions from Council members during the presentation. Council member George Francis asked questions regarding customer service response times. Council member Ben Morris asked questions regarding the cost of the service; the use of funds for the services; and ASWB's ability to provide staff and services if additional states are added. Council member George Francis asked questions regarding

the system's speed; the load capacity for internal and external customers; the upload speeds and abilities; the system's reporting processes and abilities, including the ability to configure by user; and the use of artificial intelligence and the system's ability to notify staff and applicants along the process to keep the application moving forward. Chair Gloria Canseco asked questions about configuring the system to require certain information be submitted before proceeding through the application process.

Council member George Francis asked questions about price points based on the number of applications submitted, and Mr. Dave Ryczko responded that the fee is $60 per application regardless of the number of applications processed. Council member George Francis requested that Executive Director Spinks provide a cost comparison of ASWB's cost to the Council's current cost. Executive Director Spinks asked questions regarding ASWB's fees based on the type of functions transferred to ASWB. Mr. Dave Ryczko explained that ASWB's fees increase from $60 to $100 per customer based on the level of services to be provided.

Executive Director Spinks requested direction from the Council regarding exploring moving forward with the ASWB's contract. Council member George Francis asked questions regarding the contract term. Ms. Jennifer Henkel discussed contract processes and terms with other states and the flexibility in determining the contract term and renewal options with the Council. She stated that the minimum contract period would be a one-year contract due to the programming and configuration of the system. Mr. Dave Ryczko provided the contract terms and renewal provisions for other states and recommended at least a three-year contract based on the efforts needed for programming. Chair Gloria Canseco asked how long it would take to set up the system and start operations. Mr. Ryczko responded that it would be two to three months after signing a Memorandum of Understanding (MOU) and receiving specifications from the Council. Executive Director Spinks anticipated the time period may be longer since rule changes may be needed.

Executive Director Spinks recommended that this matter be referred to the Texas State Board of Social Worker Examiners (TSBSWE) before the Council makes a decision. This matter could be added to the TSBSWE agenda for its September 11, 2020 meeting.

Council member Ben Morris expressed concerns regarding a potential conflict of interest or at least the appearance of a conflict involving contracts and a person holding a position with the Texas Behavioral Health Executive Council, the Texas State Board of Social Worker Examiners, and the Association of Social Work Boards. Council member Timothy Brown disclosed that he is on the Board of Directors of the ASWB and is in the last year of his four-year term as President. Council member Timothy Brown also discussed his previous disclosures regarding his role and involvement with ASWB. Council member Timothy Brown confirmed that the Texas State Board of Social Worker Examiners is a member of the ASWB, the ASWB is made up of social work licensing boards in North America, and the ASWB Board of Directors is comprised of persons who serve on the member licensing boards. Council member Timothy Brown thanked the Council and staff for exploring ways to reduce the backlog of social work license applications, and he stated that there is no pressure from him to use ASWB in addressing the backlog. Council member George Francis suggested that Executive Director Spinks explore other options to compare license processing systems.

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Executive Director Spinks will research other license processing systems and will bring his findings to the Council along with the Council's costs of processing licensing applications. The Council members offered comments on the length of a contract term; the importance of providing updates on the Council website regarding this process; the long-term goal to have a unified license processing system for all programs; the importance of obtaining input from the TSBSWE; the need for expediency in eliminating the backlog; and the quality of the product presented today. The Council agreed that this matter will come back to the Council for consideration at the first Council meeting following the TSBSWE meeting on September 11, 2020.

Executive Director Spinks stated that he would update the draft proposed plan under item 4 to include additional information on preparing for future changes to the online licensing processes. Executive Director Spinks will have the updated plan approved by Chair Gloria Canseco and then post it to the Council website.

Chair Gloria Canseco moved to item 6, Discussion regarding exceptional items to be included in 2022-23 Legislative Appropriations Request. Executive Director Darrel Spinks reported that he had not received the instructions yet for the Legislative Appropriations Request (LAR). He informed the Council that the exceptional items to be included in the LAR would be requesting any required budget cuts to the baseline funding be returned; asking for a temporary Administrative Assistant position to be made permanent; and seeking money for office furniture and chairs and for information technology cabling and set-up in the new, permanent office. Council member Dr. Susan Fletcher asked questions about the technology available for holding future Council meetings. Council member John Bielamowicz supported any reasonable efforts to make the meetings more accessible to the public. Council member Jennifer Smothermon left the meeting during this agenda item.

Chair Gloria Canseco moved to item 3, Public Comments. There was no public comment.

Chair Gloria Canseco moved to item 7, Adjournment. Chair Canseco adjourned the meeting at 1:32 p.m.

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Gloria Canseco, Presiding Officer
Texas Behavioral Health Executive Council

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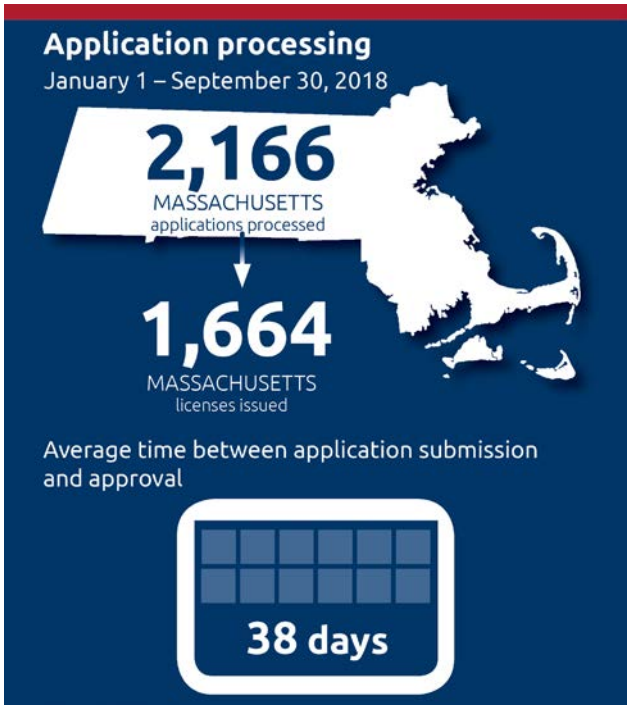
MY ASSOCIATION • MY SOLUTION

Application processing, preapproval, and other services

The Association of Social Work Boards (ASWB) has been supporting the work of regulatory boards since 1979. During that time, the capabilities of ASWB have grown dramatically. The association has built on its success as a licensing examination provider, a disciplinary data storage center, a continuing education clearinghouse, and a credential registry. ASWB can offer the Texas State Board of Social Worker Examiners a range of unique services in the areas of exam preapproval, licensure application processing, issuing license and/or registration numbers, and annual renewal processing. These services can be tailored the individual needs of the Texas State Board of Social Worker Examiners and are supported by the only nonprofit association devoted exclusively to the public protection mission of social work regulators.

The services that ASWB provides have lifted some of the administrative burdens from boards and allowed board staff to conduct business more efficiently and cost-effectively. Most importantly, these services are provided by an organization whose voting members—including the Texas State Board of Social Worker Examiners—are the social work regulatory boards across the United States and Canada. ASWB currently provides application processing services to Massachusetts; preapproval services to Colorado and Utah; and continuing education auditing services to Louisiana, Maryland, Massachusetts, and North Carolina.



Key advantages

ASWB offers the Texas State Board of Social Worker Examiners several key advantages in providing exam preapproval, application processing, and other services for licensure applicants and licensees:

- Approved candidates will be able to register immediately for the exam because the transfer of preapproval data is automatic. The preapproval system also will receive and store the examination scores of licensure applicants.
- The Texas State Board of Social Worker Examiners will receive dedicated support from ASWB and seamless integration of services. ASWB has the experience and infrastructure in place to provide excellent service to Texas. The services offered can be integrated with ASWB's application processing service, continuing education audit service, its Approved Continuing Education (ACE) program, and its Social Work Registry credential service.
- Licensing history of every applicant is checked during preapproval. ASWB's Public Protection Database (PPD) collects information on social workers disciplined by regulatory boards in the United States and Canada. Consequently, ASWB can check every applicant against this database as part of the preapproval process, allowing the board to gather more information if needed.

- Like the Texas board, ASWB's work is focused on a single profession, which means that ASWB's staff is familiar with and fundamentally understands the importance of public protection through social work licensing and regulation. The enforcement of licensure requirements is as critical to ASWB's mission as it is to that of the Texas State Board of Social Worker Examiners.

Technical proposal

Application development and production

ASWB will develop and produce licensure applications to the specifications of the Texas State Board of Social Worker Examiners. Forms will be produced in online digital formats.

Customer service access

ASWB will develop detailed web content on our site (www.aswb.org) and provide links for inclusion on the Texas board's website, including any specific content and links that the board deems necessary or helpful to applicants. Our site will also allow applicants to email specific questions to appropriate ASWB staff.

ASWB's site is maintained by our staff. We can revise site content quickly and keep our site current as requirements, forms, and procedures change.

Online application processing, review, and preapproval

Because of our commitment to public protection through effective social work licensure, ASWB is uniquely prepared to review applications thoroughly and promptly, usually the day of receipt. As applications are received, the supporting documentation will be reviewed and logged into our database system. Once the application is logged into the system and the payment is processed, ASWB's database system will assign a unique tracking number to each application, facilitating financial reconciliation as well as application tracking.

ASWB staff will review the application to determine whether the candidate meets Texas standards for taking the examination, retaking the examination, or for licensure by endorsement. A request to supply additional information will be sent to applicants submitting incomplete applications.

Applicants submitting complete applications will receive same-day electronic confirmation. ASWB will transmit complete application data to the board. Applications that require further board action will be referred for board review.

Receipt and transfer of payments

ASWB's accounting system will process fees and remit the appropriate portion to the board and/or any appropriate third parties, as determined by the Texas board. ASWB will offer applicants the option of paying fees by credit card. Collecting fees by credit card will significantly speed up the application approval process, as well as provide prompt remittance of fees to Texas.

Electronic data transfer of examination approvals

ASWB operates the registration system for individuals taking the social work licensing exams. Approval data is transferred automatically between the preapproval program and the Candidate Services Center. Applicants will be notified immediately by electronic methods of the approval and may register to take the exam as soon as they are notified.

Examination results and license issuance

ASWB currently maintains examination results for every individual who takes one of the social work licensing examinations.

ASWB's database system is capable of issuing sequential license numbers according to the board's requirements. License numbers will be issued upon receipt of board approval.

ASWB will convey the requirements for retaking the licensing examination to candidates who do not pass. ASWB will retain any non-passing applications on file to allow for reexamination.

Certificates

At the licensee's request and for an additional fee, ASWB can generate optional Texas official licensure wall certificates bearing the licensee's name, license held, effective date, and license number. The certificates will be forwarded to the board for official signatures.

Renewal processing/CE audit service

ASWB can process renewal applications. The board will identify individuals whose credentials are eligible for renewal.

ASWB will provide renewal information and materials to renewing licensees for licensees to document the required information and pay the renewal fee. Licensees may submit the form electronically. Licensees renewing and selected for continuing education audit will automatically be coordinated with ASWB's CE audit service.

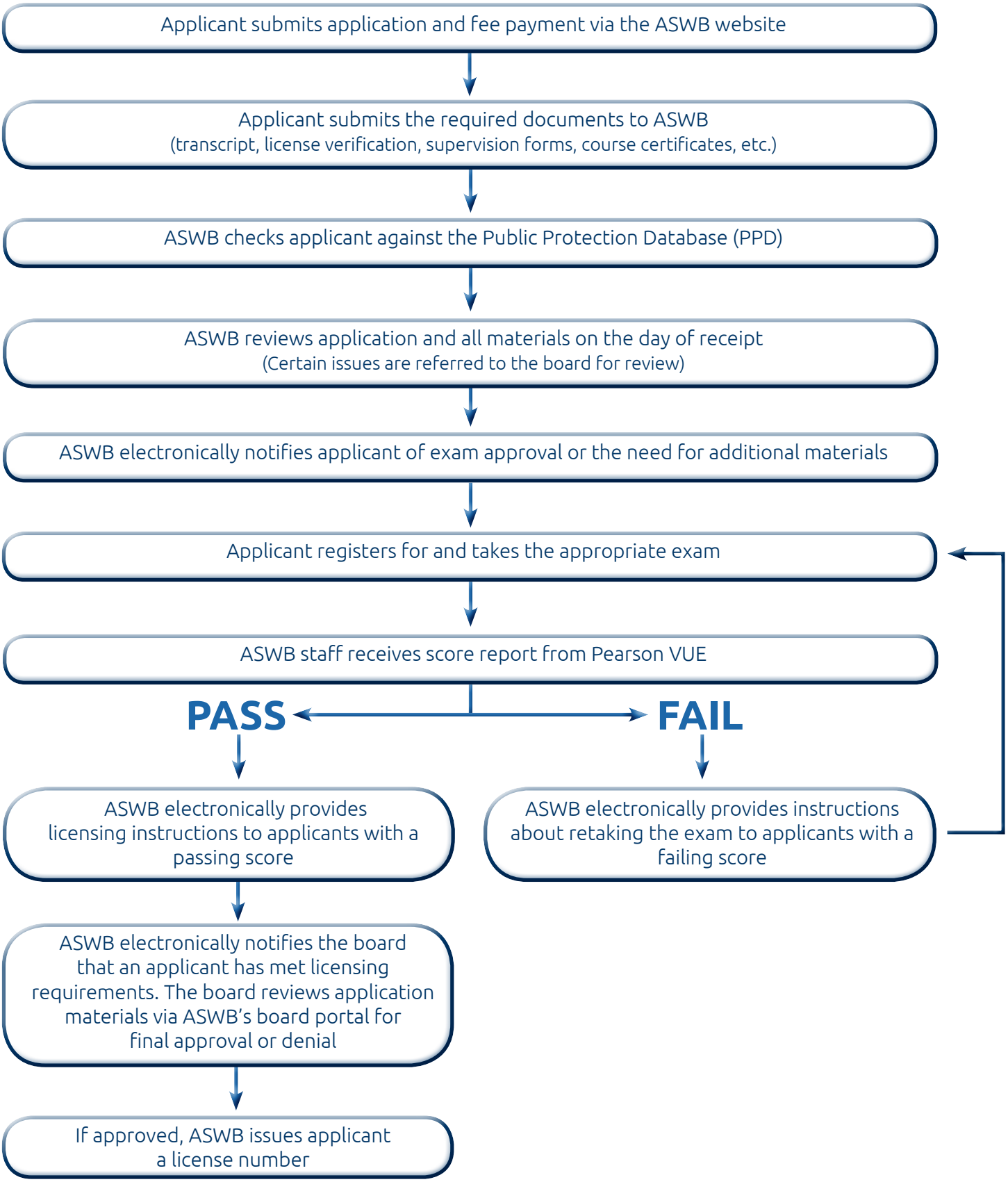
The database system will track renewals processed, update the Texas licensee database as authorized by the board, and provide regular status reports to the board.

ASWB will notify licensees when their licenses have been renewed. ASWB will forward electronic files documenting completed renewals and remittance fees to the board monthly.

Contact: Dave Ryczko at 800.225.6880, ext. 3012, or via email

MY ASSOCIATION • MY SOLUTION

Texas Application Processing



ASWB RETAINS APPLICATIONS AND DOCUMENTS PERMANENTLY

Gmail

Darrel Spinks <darrel@tsbep.state.tx.us>

Estimated Costs for Processing of Requests for Approval to Sit for Exams

Darrel Spinks <Executive.Director@tsbep.texas.gov> Wed, Jul 29, 2020 at 3:20 PM

[redacted]

Council Members:

In connection with our discussion about whether to outsource the processing of requests for approval to sit for the national exam by social work applicants, Mr. Francis had inquired about an estimate of our own costs for conducting these particular services.

Based upon the information available, it appears that HHSC is utilizing two L&Ps to process these applications, with 2 dedicated admin. support staff. *NOTE: Support staff will not be dedicated specifically to these L&Ps under BHEC; thus I have not included the salaries and fringe benefits for these FTEs in my calculations.*

Salaries and fringe benefits for 2 FTEs with 2,400 initial LBSW/LMSW applications per year, would come out to $39 per application to process. This figure does not however, include any overhead for those positions (email, laptop, VOIP, software, etc), nor does it include any other staff time such as receptionists and administrative support staff who answer phones calls from these applicants, open mail and process checks, receive transcripts and license verification forms. Stated another way, the $39 figure does not encompass all of the work that must be performed to both directly and indirectly support the L&Ps who are processing these applications.

Given that the current FTEs tasked with processing these requests each have a workload of approximately 1,200 applications per year, we estimate it would take an additional 2 L&Ps to achieve the desired effectiveness and efficiency in processing these requests. These additional L&Ps would then increase the cost per application to $78, again, without taking into consideration the other costs associated with the requisite direct and indirect support. *NOTE: In order to add 2 additional L&P FTEs we would need to request them in our upcoming LAR, and if approved, we would not be able to actually hire the staff until September 1, 2021. Additionally, it is highly likely that the increased costs associated with the new staff would require an increase in fees.*

Darrel

Executive Director
Texas Behavioral Health Executive Council
Texas State Board of Examiners of Psychologists
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TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

IDENTIFICATION CARD

Specialist in School Psychology

[redacted] M.S.

[redacted]

July 31, 2020

LICENSE NUMBER

EXPIRATION DATE

(NOT A LICENSE-FOR IDENTIFICATION ONLY)

[redacted] M.S.

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

ANNUAL RENEWAL PERMIT

Licensed Specialist in School Psychology

[redacted] M.S.

THIS DOCUMENT IS DULY ISSUED UNDER THE LAWS OF THE STATE OF TEXAS

[redacted]

July 31, 2020

LICENSE NO.

EXPIRATION DATE

MUST BE DISPLAYED WITH LICENSE IN A CONSPICUOUS PLACE

BHEC Transition Plan

GENERAL TASKS

Task	Responsibility	Projected Start Date	Projected Completion Date	Status	Division	Comments
Get quote for Project Change Request (PCR)	TSBEP	January 2019	January 2019	Complete	Database	
Adopt Procedural Rules	**TSBEP/HHSC/BHEC**	**September 1, 2019**	**July 31, 2020**	**In Progress**		**Proposed procedural rules to be considered for adoption at June 16th meeting.**
Adopt Transition Plan	**BHEC**	**September 2019**	**January 14, 2020**	**Completed**		
Complete Transfer of Regulatory Programs to BHEC	**TSBEP/HHSC/BHEC**	**September 1, 2019**	**August 31, 2020**	**In Progress**		Go Live is scheduled for August 24
MOU for Accounting and Purchasing Services	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
IAC for Interim Director	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
MOU for General Counsel Services	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
MOU with TDLR for open meetings; human resources/hiring of permanent BHEC Director; and certain rulemaking tasks	BHEC/TDLR	September 2019	December 2019	Completed	Legal	
MOU between BHEC and Health Professions Council (HPC) for data transition	BHEC/HPC	September 2019	November 2019	Completed	Legal	
Develop and Approve Transition Plan	BHEC/TSBEP/HHSC	September 2019	January 2020	Completed	Legal	
Statement of Work	BHEC/TSBEP/HHSC/ HPC/Micropact	October 2019	October 2019	Completed	Legal	PCR signed by John Monk at HPC.
Interim Executive Director appointed	BHEC	October 2019	October 2019	Completed	Budget	
Begin CFO duties - set up USAS, enter state-paid draw downs.	TSBEP	October 2019	March 2020	Completed	Budget	
Identify points of contact for each program, by function (licensing, enforcement, accounting, admin)	TSBEP/HHSC/BHEC	October 2019	October 2019	Completed	Admin	Go through Tim Speer at HHSC for any contact information.
List of all Board members with emails, addresses and phone numbers.	TSBEP/HHSC/BHEC	October 2019	October 2019	Completed	Admin	
Prepare FY 2020 Operating Budget	TSBEP	October 2019	November 2019	Completed	Budget	
Identify points of contact for database transfer of information	HHSC/TSBEP	October 2019	December 2019	Completed	Database	Angie and James to work with Weijen.
Complete Board Member Training	**TSBEP**	**October 19, 2019**	**December 1, 2019**	**Completed**		One member each from the LMFT and Social Worker Boards did not receive the required training. One member has resigned and the other no longer qualifies to serve.
CAPPS Configuration	TSBEP	October 2019	January 2020	Completed	Budget	
Finalize location arrangements	TSBEP/BHEC	October 2019	Feburary 2020	Complete	Budget	Met with TFC on March 4. Ageed on location plans. Hobby Building Tower 3, 9th Floor and Tower 2, 3rd Floor.
Council Hiring Committee - Conduct interviews and recommend final candidates to the Council for final interviews and consideration.	BHEC	January 2020	March 2020	Completed	Budget	
Hire Executive Director	**BHEC**	**October 15, 2019**	**April 1, 2020**	**Completed**		**Darrel Spinks to start 3/1/20**
Complete Council Member Training	**TSBEP**	**October 19, 2019**	**August 31, 2020**	**Completed**		

Discuss/agree on transition timelines	TSBEP/HHSC/BHEC	November 2019	November 2019	Completed	Admin	Transition of programs to occur upon database Go-Live on August 24.
Meetings with staff to discuss database transition timelines and go-live date.	HHSC/TSBEP/HPC	November 2019	August 2020	Ongoing	Database	Go Live is scheduled for August 24th
Meetings with HHSC IT staff to discuss transfer of data to HPC.	HPC/HHSC	November 2019	August 2020	Ongoing	Database	Weekly project meetings with HHSC IT staff, HPC IT, BHEC staff and MicroPact on Tuesdays at 1: 30 pm.
Update TSBEP and HHSC websites with current status of transfers. Build BHEC program webpages – coming soon information. Start posting known information and dates, FAQs.	TSBEP/HHSC/BHEC	November 2019	August 2020	Ongoing	Admin	BHEC website launched on June 26th; TSBEP and PLCU programs have posted information about BHEC on their own websites.
Posting deadline for January meeting agenda (post earlier if possible)	**TDLR**	**January 6, 2020**	**January 6, 2020**	Completed		
BHEC Council Meeting	**BHEC**	**January 14, 2020**	**January 14, 2020**	Completed		
Identify and provide lists of all applicable federal, state, county, and municipal statutes and rules that affect or relate to the transferred programs.	TSBEP/HHSC/BHEC	January 2020	February 2020	Completed	Legal	Agency staff have identified what they believe to be all the laws applicable to the agency.
Identify trade associations, national associations, and interested parties involved – annual conferences, meetings.	TSBEP/HHSC/BHEC	January 2020	January 2020	Completed	Admin	
Obtain email subscriber list from HHSC programs. If none available, get email list from VR of all licensees and applicants.	TSBEP/HHSC/BHEC	January 2020	January 2020	Completed	Admin	
Identify any draft or proposed rules being worked on for the programs before transfer.	TSBEP/HHSC/BHEC	January 2020	February 2020	Completed	Legal	This will be done as part of the rule review conducted by each member board in connection with the rule changes necessary following adoption of procedural rules by the Council. LMFT Bd. proposed rule changes at 4/17th meeting; Psych. Bd. proposed rule changes at May 14th meeting; LPC Bd. proposed rule changes at May 15th meeting; Social Worker Bd. anticipated to propose rules at June 6th meeting.
Hire Executive Director - put into CAPPS	TSBEP	January 2020	March 2020	Completed	Budget	
Prepare job postings for all positions	TSBEP/BHEC	January 2020	March 2020	Completed	Budget	Five executive level jobs were posted as of 2/28. Program Specialists, Executive Assistant and 2 Mangaer II positions are posted through 3/31/20. All postings for other positions have been completed, but need to hire management staff first. Plan to post remaining jobs in early to mid-April.

Set up metered mail account for 510	TSBEP	January 2020	March 2020	Completed	Budget	TBHEC metered mail account set up and has funds in it.	
Bi-weekly meetings to discuss data transfer, configuration, user acceptance testing, issue updates, training, etc.	HHSC/TSBEP/ Micropact/HPC	January 2020	August 2020	Ongoing	Database	Weekly project status meetings with HPC IT staff and TSBEP staff are occuring every Tuesday at 9:00 am	
Set up new domain controller and file server	TSBEP/BHEC	January 1, 2020	April 1, 2020	In Progress	Admin	Domain controllers and file server have been established w/in SDC; TSBEP data will be moved to BHEC file server during week of 8/17th; final move to SDC will occur sometime in Sept. once file server and connections have been thoroughly tested.	8/19
Posting deadline for February meeting agenda (post earlier if possible)	**TDLR**	**January 24, 2020**	**January 24, 2020**	Completed			
BHEC Council Meeting	**BHEC**	**February 4, 2020**	**February 4, 2020**	Completed			
Prepare/adopt performance measure definitions	TSBEP/BHEC	February 2020	March 2020	Completed	Budget	Performance measure definitions were approved at March Council meeting. Changes to strategic structure has been submitted to LBB/Governor's office for BHEC Performance Measures.	
Configuration freeze	HHSC/TSBEP/HPC	February 2020	July 2020	In Progress	Database	Configuration freeze began June 19, 2020, until August 24, 2020.	6/5
Posting deadline for March meeting agenda (post earlier if possible)	**TDLR**	**February 21, 2020**	**February 21, 2020**	Completed			
BHEC Council Meeting	**BHEC**	**March 2, 2020**	**March 2, 2020**	Completed			
Setup Texas.gov for online payment only applications through TPE. New coding block for online transactions. New IAC contract for DCS/Texas.gov/Office 365 services.	TSBEP/BHEC	March 2020	April 2020	In Progress	Admin	Submitted coding blocks for Texas.gov and eStrategy payments online payments. Completed UAT 3 day Comptroller testing in July. Steve Matt (eStrategy) is testing the eStrategy coding block with Comptroller.	8/19
Initial database transfer into testing environment.	HPC/Micropact	March 2020	March 2020	In Progress	Database	Project kickoff in March 2020. Initial data transferred May 2020. Review of data setup in Versa began May 26, 2020. UAT testing beginning June 8. Continuing to work on data transition and configuration through Go Live, slated for August 24.	6/5

Set up ORI numbers with DPS/FBI for fingerprinting checks.	HHSC/TSBEP	March 2020	March 2020	In Progress	Licensing	Spoke with Tina at DPS. HB 1501 has been sent to FBI for approval for authority to fingerprint. Awaiting word from FBI. Once received, DPS will set up new account ORI number. TSBEP account will (hopefully) be converted to TBHEC account.	6/5
Meeting with each program for comprehensive overview of licensing, enforcement, rules, etc.	TSBEP/HHSC	March 2020	March 2020	Completed	Admin	Initial meetings held with Tim Speer to go over general licensing processes. Plan to hold more detailed meetings with Managers and Program Specialists towards end of April.	
Meeting with licensing to discuss processes, education, examination, and licensing requirements for each license type.	HHSC/TSBEP	March 2020	April 2020	Ongoing	Licensing		
Meeting with outside entities involved in program - exam providers, continuing education course providers and any entities approving courses.	HHSC/TSBEP	March 2020	April 2020	Completed	Licensing		
Meeting with enforcement to discuss processes.	HHSC/TSBEP	March 2020	April 2020	Ongoing	Enforcement		
Interviews for BHEC jobs	TSBEP/BHEC	March 2020	May 2020	In Progress	Budget	All Manager level positions have been accepted. Most Licensing, Enforcement, and Legal positions have been filled. Accounting, Open Records, and IT positions are in process of interviewing.	8/19
Prepare Strategic Plan	TSBEP/BHEC	March 2020	May 2020	Completed	Budget	Strategic Plan was approved by the Council at its June 16th meeting and submitted per the instructions. Strategic Plan has also been posted on BHEC's website.	
Design/develop new BHEC website.	TSBEP/HHSC/BHEC	March 2020	June 2020	Ongoing	Admin	BHEC.texas.gov domain secured. BHEC website launched in July. Continuing to work on webpages.	
Copies of all forms (application, exam, etc.) and publications.	HHSC/TSBEP	March 2020	July 2020	In Progress	Licensing	Working on standardizing letters, and converting them to BHEC formatting. Staff are currently reviewing and revising TSBEP and HHSC applications.	
Copies of all forms (complaint, NOV, etc.) and publications.	HHSC/TSBEP	March 2020	July 2020	In Progress	Enforcement	BHEC complaint form has been finalized and posted on website. Staff are working on standardizing letters, and converting them to BHEC formatting.	

Identify all lawsuits, complaints, or investigations pending with OAG for all four programs and identify any issues that have the potential for legal action. (OAG main office and regional offices, and all OAG divisions)	HHSC/TSBEP/BHEC	March 2020	July 2020	Completed	Legal	There are no active or threatened claims pending against any of the member boards.	
Draft and edit forms and publications. Create forms/publications inventory.	TSBEP/HHSC/BHEC	March 2020	July 2020	In Progress	Admin	Staff have begun reviewing and revising agency forms.	
Offers of employment effective 9/1/2020	TSBEP/BHEC	April 2020	May 2020	In Progress	Budget	Offers of employment are being extended as the interview and selection process for each position is completed.	8/19
Inventory and transfer paper records, both on-site and off-site. Obtain approval to transfer from Records Management. Review records retention plan for programs.	TSBEP/HHSC	April 2020	May 2020	In Progress	Admin	RRS has been submitted to TSLAC for final approval	
Decide what to do with paper files.	TSBEP/HHSC/BHEC	April 2020	May 2020	In Progress	Admin	Record Retention Schedule should address this issue.	
Upgrade, create, implement secure systems and practices for the storage of complaint records	HHSC/TSBEP	April 2020	July 2020	In progress	Enforcement	Record Retention Schedule should address this issue.	
In 2021, BHEC has a contingency revenue rider attached to the bill. Proof of revenue will need to be provided to the Comptroller for certification of those funds. This will require revenue monitoring and action from the CFO.	TSBEP/BHEC	April 2020	August 2020	In Progress	Budget	Fee increases to fund revenue contingency rider to be adopted as part of BHEC procedural rules. Adoption should occur in August. CFO will submit Finding of Fact letter to Comptroller in September.	
Prepare USAS coding block for CPA	TSBEP/BHEC	May 2020	May 2020	Completed	Budget	Coding block has been sent to Comptroller.	6/5
User Acceptance Testing	HHSC/TSBEP/HPC	May 2020	May 2020	Completed	Database	UAT testing has been completed. Go LIve is scheduled for August 24th	8/19
Postcard mail out to transferring licensees to announce pending transfer and give BHEC contact info (welcome to BHEC cards).	TSBEP/HHSC/BHEC	May 2020	May 2020	Completed	Admin	May use email blast and website notices. These have been sent to licensees/applicant in July.	6/5
Submit Texas.gov change request/ Amend Texas.gov customer agreement.	TSBEP/HHSC/BHEC	May 2020	May 2020	Completed	Admin	Texas.gov Onboarding form completed for BHEC. Submitted in May.	6/5
Base Reconciliation - this is a report required by the LBB in the spring of 2020 that will need to be completed. It will be the beginning of the LAR request in the summer.	TSBEP/BHEC	May 2020	June 2020	Completed	Budget	Base Reconciliation instructions are out. Communicatd with Daniela at LBB to "normalize" BHEC funding for Base Rec. Submitted 4/30/20.	
Send out notications of online renewals ONLY and fingerprinting requirement.	HHSC/TSBEP	May 2020	July 2020	Completed	Licensing	September and October HHSC renewals have been sent out by BHEC.	8/19

Purchases of laptops, VOIP switch, workstations, consumables, USB drives for HHSC staff, etc.	TSBEP	May 2020	July 2020	Ongoing	Budget	60 laptops, monitors, docking stations, mouse and keyboards have been purchased and delivered. USB flash drives for HHSC staff have been delivered. 5 Xerox copiers have been ordered on contract. All networking equipment has been received. Supply orders have been sent and are coming in daily.	8/19
Posting deadline for June meeting agenda (post earlier if possible)	**TDLR**	**June 8, 2020**	**June 8, 2020**				
BHEC Council Meeting	**BHEC**	**June 16, 2020**	**June 16, 2020**				
Final data transfer	HHSC/TSBEP/HPC	June 2020	June 2020	In Progress	Database	Final data transfer is scheduled for 8/21. LIve testing will occur 8/22 - 8/23 for Go/No Go decision. Staff will be needed that weekend for live data entry.	
Transfer TSBPA property to BHEC	TSBEP/BHEC	June 2020	July 2020	Not Started	Admin	Contact Grace at TSBPA to DM27 the furniture, and complete Transfer Property form so that it is not on SPA.	
Post new licensing forms and instructions to BHEC website.	BHEC	June 2020	July 2020	In Progress	Licensing	Forms and publications are being posted to BHEC's website at they are finalized by staff.	
Notify licensees with July 2020 license expiration of anticipated system downtime.	HHSC/TSBEP	June 2020	July 2020	Completed	Licensing		
Setup email addresses, phone/data lines, copiers, fax machines	TSBEP	June 2020	July 2020	In Progress	Budget	Working with Melissa/Don at DIR to order/setup phone lines. VOIP cutsheet has been sent to DIR.	8/19
Prepare LAR	TSBEP/BHEC	June 2020	July 2020	In Progress	Budget	CFO is continuously working on LAR budget as expenses are known/anticipated. LAR instructions should be available 8/19.	8/19
Send all TSBEP and HHSC licensees "Welcome to BHEC" letter, including new processes for HHSC, and system downtime for all licensees.	TSBEP/HHSC/BHEC	June 2020	July 2020	Completed	Licensing	Letters have been prepared and approved. Will begin sending out in June/July.	6/5
Remove downloadable applications from HHSC program websites and redirect to BHEC webpage. Remove all downloadable renewal forms.	HHSC/TSBEP	July 2020	July 2020	Not Started	Licensing		
Send letters to complainants and respondents regarding change from HHSC to BHEC.	HHSC/TSBEP/BHEC	July 2020	July 2020	In Progress	Enforcement	Notification has been provided to TSBEP complainants, but will not be provided to respondents because respondents are not typically notified of a complaint unless a response becomes necessary, i.e. probably cause is found for a violation.	

Submit CCTS work order for new phones/lines.	TSBEP	July 2020	July 2020	Completed	Admin	Phones are on order. Cutsheet has been sent to DIR	8/19
Complete PCI SAQ for BHEC - include both service codes	BHEC	August 2020	August 2020	Completed	Database		8/19
Go-Live - Database	HHSC/TSBEP/HPC	August 2020	September 2020	In Progress	Database	Go Live scheduled for August 24.	8/19
Turn on public information regarding issuance and expiration dates for TSBEP licensees	HPC	August 2020	September 2020	In Progress	Database	Will occur on August 24th.	8/19
Re-direct HHSC web programs to BHEC website.	HPC	August 2020	September 2020	Not Started	Admin		
Set up email subscription system for the licensees	BHEC	August 2020	August 2020	Completed	Admin		
Enter new hires with 9/1/2020 effective date	TSBEP	August 2020	August 2020	In Progress	Budget	Cannot enter new hires in CAPPS until September 2nd. Created spreadsheet with new hire info to make entry easier. Received all info for HHSC employees for building badges. Waiting on parking info from HHSC for permits.	8/19
Prepare for FY 2021/ Close out FY 2020	TSBEP/BHEC	August 2020	August 2020	In Progress	Budget	Working on AFRs. Submitted original budget entries for BHEC.	8/19
Coordinate transfer of licensing transactions in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	In Progress	Licensing		
Coordinate transfer of open complaints and investagations in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	In Progress	Enforcement		
Coordinate transfer of enforcement cases in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	In Progress	Enforcement		
Contact SOAH regarding new agency and any pending cases.	BHEC	July 2020	August 2020	In Progress	Enforcement		
Turn off renewals for PLP rank	BHEC	July 2020	July 2020	Completed	Database	PLP renewals were turned off beginning with September renewals.	8/19
Submit STS ticket for First Data Portal Access	BHEC	September 2020	September 2020	Completed	Database		8/19
Submit STS ticket for TPE Admin Access	BHEC	September 2020	September 2020	Completed			8/19
Orient and train new staff, customer service, licensing, enforcement, and compliance	BHEC	September 2020	Ongoing	Not Started	Admin		
Place recordings on HHSC phone lines directing callers to BHEC	HHSC	September 2020	Ongoing	Not Started	Admin		
Move all PLP rank to LP rank, change status from 20 Active to 21 Provisional Status, set all expiry dates to August 31, 2022.	BHEC	September 2020	September 2020	In Progress	Database	All changes affecting PLP rank will be part of Go LIve. Angie is working on configuration, and Jennifer is testing new configurations in PreProd as Angie completes them.	
BHEC PROCEDURAL RULES							
Draft BHEC Proposed Rules	TSBEP/BHEC		March 2020				
Draft Preamble and Fiscal Impact Form for BHEC Proposed Rules	TSBEP/BHEC		March 2020				

Submit BHEC Proposed Rules to Governor's Office for policy review	TSBEP/BHEC		March 2020
Discuss BHEC Proposed Rules at BHEC Meeting. Possible recommendation for publication of Proposed Rules	BHEC	January 2020	March 2, 2020
Submit **Appropriate** BHEC Proposed Rules to Governor's Office for anti-trust review	TSBEP/BHEC		
File BHEC Proposed Rules with the Texas Register.	TSBEP/BHEC		
BHEC Proposed Rules published in the Texas Register for 30-day public comment period.	TSBEP/BHEC		
Collect and respond to public comments on the BHEC Proposed Rules	TSBEP/BHEC		
Discussion of BHEC Proposed Rules and public comments at BHEC Meeting. Possible adoption of proposed rules.	BHEC		June 16, 2020
File BHEC Rules Adoption Notice with the Texas Register	TSBEP/BHEC		
BHEC Rules Adoption Notice published in the Texas Register	TSBEP/BHEC		
Post adopted rules to BHEC website	TSBEP/BHEC		

RULES OF THE FOUR INDIVIDUAL BOARDS

Identify any draft or proposed rules being worked on for the four individual programs before transfer.	TSBEP/HHSC/BHEC		
Amend and repeal (as necessary) any existing rules of the four individual boards to align with the new BHEC structure and procedural rules.	TSBEP/HHSC/BHEC		
Develop a rules timeline for the individual board that will ensure adoption of amended rules by September 1, 2020. This should include fee changes required by the contingency rider for HB 1501.	TSBEP/HHSC/BHEC		

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Dr.h.c. Sarah Abraham
John K. Bielamowicz
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Steve Christopherson, M.S.
Susan Fletcher, Ph.D.
George Francis, IV, M.B.A.
Ben Morris, M.Ed.
Jennifer Smothermon, M.A.

Darrel D. Spinks
Executive Director

August 10, 2020

Via Interagency Mail

Legislative Budget Board
Attn: Shelton Green
Robert E. Johnson Bldg., 5th Fl.
1501 North Congress
Austin, Texas 78701

Dear Mr. Green:

The Texas Behavioral Health Executive Council (BHEC) would like to formally request UB authority under Section 14.05, GAA, 86th Leg, R.S. This request is made due to the following factors:

1) The majority of the office space the agency is slated to move into (i.e., Tower 3, Suite 900) is still occupied by the Board of Public Accountancy (TSBPA), whose lease is set to expire on August 31, 2020. TSBPA's goal was to move out by July 31st, but it ran into difficulties installing telecommunications at its new location and is currently looking at a 1 ½ to 2-month delay. We were just informed of this within the last two weeks.
2) BHEC staff have attempted to negotiate an office sharing arrangement with TSBPA, but the Executive Director for TSBPA has proven extremely difficult to deal with directly and has flatly rejected BHEC's attempts to reach a compromise solution. By way of example, after cutting short my staff's survey of some of the office space in Ste. 3-900 and escorting my staff to the door, he made it very clear to them that neither they nor anyone from BHEC were wanted or welcome in his agency's office and that we were not to return. He also made it very clear that he was not agreeing to any office sharing with BHEC. Recognizing that further negotiations with the Executive Director would be counterproductive, BHEC staff have since attempted to resolve this situation by working through TFC staff, who have given some indication that BHEC's most recent proposal would be acceptable. Under BHEC's proposal, TSBPA would be required to make 8 offices available to BHEC, with the remaining BHEC staff being located in TSBEP's current office space, the Podiatry Board's former office space on the 3rd floor of Tower 2, the Architecture Board's former office space, and several conference rooms within the Hobby Bldg. The details of the proposal have yet to be worked out, but in any event still leave BHEC with significant logistical and office space problems

3) Until TSBPA moves out, our agency does not know what office furniture and file cabinets they will be leaving for our use, and what they will be taking. We do not want to order these items if they are not necessary.
4) We will not have enough storage space under BHEC's proposed solution to store items that we need to purchase in bulk, or larger items that we will need (see examples below). We do not want to have them delivered to an offsite storage, only to have to pay to have them moved in a couple months into our new location.

The Council requests UB authority of $250,000 to cover the following potential costs:

$192,000 ($3,000 per employee) for workstation (desks, chairs, bookcases, etc.),
$8,000 for additional IT equipment that may needed in each of the two locations,
$50,000 for the bulk purchase of consumables (such as envelopes, mailers, renewal permits, toner cartridges, copy paper) and for the purchase of large items (such as refrigerators, microwaves, shredders, printers, chairs) that at this time cannot be stored anywhere in the current office space.

Due to the unforeseen circumstances described above, there is an urgency of processing this request as time is of the essence with the fiscal year end close.

Sincerely,

Darrel Spinks
Executive Director

Preamble: The proposed change is being made to clarify the requirement that any requested rule change involving those matters set forth in §507.153(a) of the Occupations Code must be taken up and reviewed by the appropriate member board before being considered for proposal and adoption by the Council.

22 TAC 881.21, Petition for Rulemaking

(a)Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The written request must contain a return mailing address for the agency's response.

(b)The written request must, at a minimum, set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined. Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.

(c)The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economies, if such information can be derived from available sources without undue cost or burden.

(d) A petition for rulemaking which involves any of those matters set forth in §507.153(a) of the Occupations Code will be submitted by agency staff to the appropriate member board for initial review and consideration.

(~~d~~e)The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.

(~~e~~f)The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. Additionally, a person who submits a petition under this rule must affirm that they qualify as an interested person in the petition. Petitions which do not contain such an affirmation may be denied.

883.1 Renewal of a License

(a)All licenses subject to the jurisdiction of the Council are renewable on a biennial basis and must be renewed online.

(b)Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.

(c)Licensees must pay all applicable renewal and late fees, indicate compliance with any continuing education requirements, and comply with any other requests for information or requirements contained within the online renewal system as a prerequisite for renewal of a license.

(d)In addition to the requirements of subsection (c) of this section, licensees must also show compliance with each of the following as a condition of renewal:
(1)provide or update the standardized set of information about their training and practices required by §105.003 of the Health and Safety Code; and
(2)affirm or demonstrate successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code.

(e)Licensed psychologists must update their online profile information when renewing their license.

(f)A license may not be renewed until a licensee has complied with the requirements of this rule.

(g)The Executive Director may grant a licensee additional time to complete continuing education requirements based upon extraordinary circumstances, such as medical complications. A request for additional time must be submitted in writing and received by the Council on or before the license expiration date.

(hg)A licensee who falsely reports compliance with continuing education requirements on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.

(ih)Licensees will be sent notification of their approaching renewal date at least 30 days before their renewal date. This notification will be sent to the licensee's main address via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Council shall not operate to excuse a licensee's failure to timely renew a license or any unlawful practice with a subsequent delinquent license.

Texas State Board of Examiners of Marriage and Family Therapists
22 TAC Ch 801, proposed rules published July 10, 2020 [45 TexReg 4661]
On August 14, 2020 MFT Board reviewed public comment and made the recommendations herein.

SUBCHAPTER A. GENERAL PROVISIONS.

§801.2 Definitions

The following words and terms, when used in this chapter, have the following meanings unless the context indicates otherwise.

(1) Accredited institutions or programs--An institution of higher education accredited by a regionally accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

(2) Act--Texas Occupations Code, Chapter 502, the Licensed Marriage and Family Therapist Act.

(3) Board--The Texas State Board of Examiners of Marriage and Family Therapists.

(4) Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council or unlicensed.

(5) Council--The Texas Behavioral Health Executive Council.

(6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.

(7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.

(8) Endorsement--The process whereby the council reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state marriage and family therapy regulatory board. The council may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(9) Executive director--the executive director for the Texas Behavioral Health Executive Council.

(10) Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

(11) Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(12) Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(13) Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council rules, and other state laws and rules relating to the practice of marriage and family therapy.

(14) License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional marriage and family therapist license, or a provisional marriage and family therapist associate license.

(15) Licensed marriage and family therapist (LMFT)--A qualified individual licensed by the council to provide marriage and family therapy for compensation.

(16) Licensed marriage and family therapist associate (LMFT Associate)--A qualified individual licensed by the council to provide marriage and family therapy for compensation under the supervision of a council-approved supervisor. The appropriate council-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council-approved and may not be used.

(17) Licensee--Any person licensed by the council.

(18) Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(19) Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

(20) Month--A calendar month.

(21) Person--An individual, corporation, partnership, or other legal entity.

(22) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable

years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));

(B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

(23) Supervision--

(A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.

(B) Supervision, Council-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council Order, defined by the Order and the Council-Ordered Supervision Plan, and must be conducted as specified in the Council Order and Supervision Plan (generally in face-to-face, one-on-one sessions).

(24) Supervision hour--50 minutes.

(25) Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title (relating to Supervisor Requirements). The appropriate council-approved terminology to use in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor." Other terminology or abbreviations may not be used.

(26) Technology-assisted services--Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.

(27) Therapist--A person who holds a license issued by the council.

(28) Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

§801.11 The Board

(a) Membership. The board is composed of nine members appointed by the governor. Four members must be selected from the general public. Five members must be eligible for licensure under the Act, at least one of whom must be a professional educator in marriage and family therapy. These members must have engaged in the practice or education of marriage and family therapy for at least five years, or have 5,000 hours of clinical experience in the practice of marriage and family therapy.

(b) Terms. Members of the board hold office for staggered six-year terms. Three members' terms expire February 1 of each odd-numbered year.

(c) Vacancies. In the event of a vacancy, the governor will appoint a replacement who meets the qualifications of the vacated office to fill the unexpired part of the term.

(d) Elections. At the meeting held nearest to August 31 of each year, the board will elect a vice-chair by a majority vote of the members present.

(e) Officers.

(1) Chair. The chair is appointed by the governor and serves at the will of the governor.

(A) The chair presides at all meetings he or she attends and performs all duties prescribed by law and board rules.

(B) The chair is authorized by the board to make minor procedural decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board. The executive director or the executive director's designee will keep a record of the minor procedural decisions and include them in a report to the board.

(2) Vice-chair.

(A) The vice-chair performs the duties of the chair in the absence or disability of the chair.

(B) In the event of a vacancy, the vice-chair serves as chair until the governor appoints or designates a new chair.

(f) Committees. The chair may appoint board members to committees to assist the board in its work. All committees must consist of no more than four members and must make reports to the board at regular meetings.

(g) Compensation. No board member may receive compensation for serving on the board. Each member is entitled to reimbursement of travel expenses for each day the member performs board functions.

(h) Meetings.

(1) Agendas.

(A) The executive director or the executive director's designee must prepare and submit to each board member an agenda which includes items required by law, items requested by members, and other matters of board business approved by the chair.

(B) The official agenda of a board meeting must be filed with the secretary of state as required by Texas Government Code, Chapter 551 (relating to Open Meetings).

(2) Frequency of meetings. The board must meet at least biannually and may meet at other times as the chair deems necessary. All meetings must be conducted in accordance with Texas Government Code, Chapter 551 (relating to Open Meetings).

(3) Attendance. It is grounds for removal from the board if a member is absent from more than half of the regularly scheduled board meetings the member is eligible to attend during the calendar year without an excuse approved by majority vote of the board. The chair must notify the governor a potential ground for removal exists. The attendance records of the members must be made available to the governor of the State of Texas and the Texas Sunset Advisory Commission.

(4) Transaction of official business. The board may transact official business only when it is a legally constituted meeting with a quorum present. Five members of the board constitute a quorum.

(i) The board is not bound in any way by any statement or action on the part of any board member, committee member, or staff member, except when a statement or action is in pursuance of the specific instruction of the board. Board member or staff member opinions, except when a statement or action is in pursuance of the specific instructions of the board, about ethical dilemmas or practice issues should never be substituted for appropriate professional consultation or legal advice.

(j) Training. A person who is appointed to and qualifies for office as a board member may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program meeting the requirements established in Texas Occupations Code §502.059 (relating to Training Requirements) and Texas Government Code Chapter 551 (relating to Open Meetings).

SUBCHAPTER B. RULES OF PRACTICE.

§801.41 Purpose of Rules of Practice

The purpose of this subchapter is to provide guidelines regarding the provision of professional therapeutic services and to establish standards of professional and ethical conduct required of a licensee.

§801.42 Professional Therapeutic Services

The following are professional therapeutic services which may be provided by an LMFT or MFT Associate.

(1) Marriage and couples therapy using systems, methods, and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, and affective methods and strategies to achieve resolution of problems associated with cohabitation and interdependence of adults living as couples through the changing life cycle. These family system approaches assist in stabilizing and alleviating mental, emotional, or behavioral dysfunctions of either partner.

(2) Sex therapy using systems, methods, and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, and affective methods and strategies in the resolution of sexual disorders, except treatment for sex offenses. Sex offender

treatment as defined by Texas Occupations Code, Chapter 110, and Chapter 810 of this title (relating to Council on Sex Offender Treatment), is not included under Sex Therapy. An individual seeking treatment for a sexual offense must be referred for services to those licensed by the Council on Sex Offender Treatment.

(3) Family therapy using systems, methods, and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, affective, and family systems methods and strategies with families to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment through the changing family life cycle. These family system approaches assist in stabilizing and alleviating mental, emotional, or behavioral dysfunctions of a family member.

(4) Child therapy using systems methods and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, affective and family systems methods and strategies with families to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment through the changing family life cycle. These family system approaches assist in stabilizing and alleviating mental, emotional, or behavioral dysfunctions of a child.

(5) Play therapy using systems, methods, and processes which include play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors as part of the therapist's role in helping children overcome their social, emotional, and mental problems.

(6) Individual psychotherapy using systems, methods, and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, affective and family systems methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the developmental life span. These family system approaches assist in stabilizing and alleviating mental, emotional or behavioral dysfunctions in an individual.

(7) Divorce therapy using systems, methods, and processes which include interpersonal, cognitive, cognitive behavioral, developmental, psychodynamic, affective and family system methods and strategies with families to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment through the changing family life cycle. These family system approaches assist in stabilizing and alleviating mental, emotional, or behavioral dysfunctions of the partners.

(8) Mediation using systems, methods, and processes to facilitate resolution of disputes between two or more dissenting parties, including but not limited to any issues in divorce settlements, parenting plan modifications, parent-child conflicts, pre-marital agreements, workplace conflicts, and estate settlements. Mediation involves specialized therapeutic skills that foster cooperative problem solving, stabilization of relationships, and amicable agreements. A court appointed mediation requires a specialized training period.

(9) Group therapy using systems methods and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, and affective methods and

strategies to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment throughout the life span.

(10) Chemical dependency therapy using systems methods and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, affective methods and strategies, and 12-step methods to promote the healing of the client.

(11) Rehabilitation therapy using systems methods and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, and affective methods and strategies to achieve adjustment to a disabling condition and to reintegrate the individual into the mainstream of society.

(12) Referral services using systems methods and processes which include evaluating and identifying needs of clients to determine the advisability of referral to other specialists, and informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources. This includes social studies and family assessments of the individual within the family.

(13) Diagnostic assessment using the knowledge organized in the Diagnostic and Statistical Manual of Mental Disorders (DSM) as well as the International Classification of Diseases (ICD) as part of their therapeutic role to help individuals identify their emotional, mental, and behavioral problems when necessary.

(14) Psychotherapy using systems methods and processes which include interpersonal, cognitive, cognitive-behavioral, developmental, psychodynamic, and affective methods and strategies to assist clients in their efforts to recover from mental or emotional illness.

(15) Hypnotherapy using systems methods and processes which include the principles of hypnosis and post-hypnotic suggestion in the treatment of mental and emotional disorders and addictions.

(16) Biofeedback using systems methods and processes which include electronic equipment to monitor and provide feedback regarding the individual's physiological responses to stress. The therapist who uses biofeedback must be able to prove academic preparation and supervision in the use of the equipment as a part of the therapist's academic program or the substantial equivalent provided through continuing education.

(17) Assessment and appraisal using systems methods and processes which include formal and informal instruments and procedures, for which the therapist has received appropriate training and supervision in individual and group settings for the purposes of determining the client's strengths and weaknesses, mental condition, emotional stability, intellectual ability, interests, aptitudes, achievement level and other personal characteristics for a better understanding of human behavior, and for diagnosing mental problems.

(18) Consultation using systems, methods, and processes which include the application of specific principles and procedures in consulting to provide assistance in understanding and

solving current or potential problems that the consultee may have in relation to a third party, whether individuals, groups, or organizations.

(19) Activities under the Texas Family Code, Chapter 153, Subchapter K, concerning Parenting Plan, Parenting Coordinator, and Parenting Facilitator.

(20) Parent education and parent training including advice, counseling, or instructions to parents or children.

(21) Life coaching and any related techniques or modalities.

(22) Any other related services provided by a licensee.

§801.43 Professional Representation

(a) A licensee is subject to and bound by provisions of the Act, the Council Act, and council rules.

(b) [~~A licensee must submit written report to the council of an alleged misrepresentation or violation of the Act, the Council Act, or council rules.~~] A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council, may attempt to resolve the violation informally with the other licensee if the violation does not involve actual or likely harm to an individual or the public. Any unresolved violations must be reported to the Council. A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council involving actual or likely harm to an individual or the public, must report the violation to the Council.

(c) When providing professional therapeutic services as defined in §801.42 of this title (relating to Professional Therapeutic Services), a licensee must indicate his or her licensure status as an LMFT or LMFT Associate, including any probationary status or other restrictions placed on the licensee by the council.

(d) A licensee may not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including:

(1) the effectiveness of services;

(2) the licensee's qualifications, capabilities, background, training, education, experience, professional affiliations, fees, products, or publications; or

(3)the practice of marriage and family therapy.

(e) A licensee may not misrepresent any agency or organization by presenting it as having attributes that it does not possess.

(f) A licensee may not encourage, or within the licensee's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the licensee.

(g) [~~A licensee must make reasonable efforts to prevent others whom the licensee does not control from making misrepresentations, exaggerated, false, deceptive, or fraudulent claims or statements about the licensee's practice, services, qualifications, associations, or activities.~~] If a licensee learns of a misrepresentation, exaggerated, false, deceptive, or fraudulent claim or statement made by another, the licensee must take [~~immediate and~~] reasonable action to correct the misrepresentation, claim or statement.

§801.44 Relationships with Clients

(a) A licensee must provide marriage and family therapy professional services only in the context of a professional relationship.

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, such as in Texas Family Code, Chapter 32 (relating to Consent to Treatment of Child by Non-Parent or Child), a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.

(e) No commission or rebate or any other form of remuneration may be given or received by a licensee for the referral of clients for professional services. A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in Texas Health and Safety Code, §164.006 (relating to Soliciting and Contracting with Certain Referral Sources). Compliance with Texas Health and Safety Code, Chapter 164 (relating to Treatment Facilities Marketing and Admission Practices) is not considered a violation of state law regarding illegal remuneration.

(f) A licensee may not exploit the licensee's position of trust with a client or former client.

(g) A licensee may not engage in activities that seek to meet the licensee's personal needs instead of the needs of the client.

(h) A licensee may not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.

(i) A licensee must set and maintain professional boundaries with clients and former clients.

(j) A licensee may disclose confidential information to medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(k) In group therapy settings, the licensee must take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

(m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.

(n) A licensee must end a professional relationship when it is reasonably clear the client is not benefiting from it. Upon ending a professional relationship, if the client still requires mental health services, the licensee must make reasonable efforts to provide a written referral to clients for appropriate services and to facilitate the transfer to appropriate care.

(o) A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the council by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.

(p) A licensee may not offer services that are beyond the licensee's professional competency, and the services provided must be within accepted professional standards of practice and appropriate to the needs of the client.

(q) A licensee must base all services on an assessment, evaluation, or diagnosis of the client.

(r) A licensee must evaluate a client's progress on a continuing basis to guide service delivery and must make use of supervision and consultation as indicated by the client's needs.

[~~(s) A licensee may not promote or encourage the illegal use of alcohol or drugs by a client.~~]

(t) A licensee may not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee must take immediate and reasonable action to inform the other mental health services provider.

(u) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council knowledge of any unlicensed practice.

(v) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(w) [~~A licensee may not provide services while impaired by physical health, mental health, medical condition, or by medication, drugs, or alcohol.~~] A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship.

§801.45 Sexual Misconduct

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Mental health services--The assessment, diagnosis, treatment, or therapy in a professional relationship to assist an individual or group in:

(A) alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;

(B) understanding conscious or subconscious motivations;

(C) resolving emotional, attitudinal, or relationship conflicts; or

(D)modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.

(2) Sexual contact--

(A) deviate sexual intercourse as defined by Texas Penal Code, §21.01;

(B) sexual contact as defined by Texas Penal Code, §21.01;

(C) sexual intercourse as defined by Texas Penal Code, §21.01;

(D) requests by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.

(3) Sexual exploitation--A pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice.

(4) Therapeutic deception--A representation by a licensee that sexual contact with, or sexual exploitation by, the licensee is consistent with, or a part of, a client's or former client's therapy.

(b) A licensee may not engage in sexual contact with a person who is:

(1) a client or a former client;

(2) a supervisee, an LMFT Associate, or an intern for whom the licensee has administrative or clinical responsibility;

(3) a student in a marriage and family therapy graduate program in which the licensee offers professional or educational services; or

(4) a clinical supervisor or supervisee of the licensee.

(c) A licensee may not provide therapeutic services to a person with whom the licensee has had a sexual relationship.

(d) A licensee may not practice therapeutic deception or sexual exploitation.

(e) It is not a defense under subsections (b) - (d) of this section, if the sexual contact, sexual exploitation, or therapeutic deception with the person occurred:

(1) with the consent of the person;

(2) outside the therapy, treatment or supervision sessions, classes, or work hours of the person; or

(3) off the premises regularly used by the licensee for the therapy, treatment or supervision sessions, classes, or work hours of the person.

(f) The following, when done in the context of professional services, is considered sexual exploitation.

(1) Sexual harassment, sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature and:

(A) is offensive or creates a hostile environment, and the licensee knows or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context.

(2) Any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexual.

(3) Inappropriate sexual comments about or to a person, including making sexual comments about a person's body.

(4) Making sexually demeaning comments to or about an individual's sexual orientation.

(5) Making comments about potential sexual performance except when the comment is pertinent to the issue of sexual function or dysfunction in therapy or treatment.

(6) Requesting details of sexual history or sexual likes and dislikes when not necessary for therapy or treatment of the individual.

(7) Initiating conversation regarding the sexual likes and dislikes when not necessary for therapy or treatment of the individual.

(8) Kissing or fondling.

(9) Making a request for non-professional social contact.

(10) Any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature.

(11) Any intentional exposure of genitals, anus, or breasts.

(12) Encouraging a client, student, supervisee, intern, LMFT Associate, or former client to masturbate in the presence of the licensee.

(13) Masturbation by the licensee when a client, student, supervisee, intern, LMFT Associate, or former client is present.

(g) Examples of sexual contact includes those activities and behaviors described in Texas Penal Code, §21.01.

§801.46 Testing

(a) A licensee must make known to clients the purposes and explicit use of any testing done as part of a professional relationship.

(b) A licensee may not appropriate, reproduce, or modify published tests or parts thereof without the acknowledgment and permission of the publisher.

(c) A licensee may not administer and interpret any test without the appropriate training and experience to administer and interpret the test.

(d) A licensee must observe the necessary precautions to maintain the security of any test administered by the licensee or under the licensee's supervision.

§801.47 Drug and Alcohol Use

(a) A licensee may not use alcohol or drugs in a manner which adversely affects the licensee's ability to provide marriage and family therapy services.

(b) A licensee may not promote or encourage the illegal use of alcohol or drugs by a client.

§801.48 Record Keeping, Confidentiality, Release of Records, and Required Reporting

(a) Communication between a licensee and client and the client's records, however created or stored, are confidential under the provisions of the Texas Health and Safety Code, Chapter 611 (relating to Mental Health Records), and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.

(b) A licensee may not disclose any communication, record, or identity of a client except as provided in Texas Health and Safety Code, Chapter 611 (relating to Mental Health Records), or other state or federal statutes or rules.

(c) A licensee must comply with Texas Health and Safety Code, Chapters 181 (relating to Medical Records Privacy) and 611 (relating to Mental Health Records), and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice, concerning access to and release of mental health records and confidential information.

(d) A licensee must report or release information as required by the following statutes:

(1) Texas Family Code, Chapter 261 (relating to Investigation of Report of Child Abuse or Neglect);

(2) Texas Human Resources Code, Chapter 48 (relating to Investigations and Protective Services for Elderly Persons and Persons with Disabilities);

(3) Texas Health and Safety Code, Chapter 161, Subchapter L (relating to Abuse, Neglect, and Unprofessional or Unethical Conduct in Healthcare Facilities); and

(4) Texas Civil Practice and Remedies Code, §81.006 (relating to Duty to Report Sexual Exploitation by a Mental Health Services Provider).

(A) If a licensee has reasonable cause to suspect that a client has been the victim of a sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during therapy or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or mental health services provider (during therapy or any other course of treatment), the licensee must report alleged misconduct not later than the 30th day after the date the licensee became aware of the misconduct or the allegations to:

(i) the district attorney in the county in which the alleged sexual exploitation, sexual contact, or therapeutic deception occurred;

(ii) the council if the misconduct involves a licensee; and

(iii) any other state licensing agency which licenses the mental health services provider.

(B) Before making a report under this subsection, the reporter must inform the alleged victim of the reporter's duty to report and must determine if the alleged victim wants to remain anonymous.

(C) A report under this subsection is required to contain only the information needed to:

(i) identify the reporter;

(ii) identify the alleged victim, unless the alleged victim has requested anonymity;

(iii) express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and

(iv) provide the name of the alleged perpetrator.

(e) A licensee must keep accurate records of therapeutic services, including dates of services, types of services, progress or case notes and billing information for a minimum of seven years after termination of services or five years after a client reaches the age of majority, whichever is greater.

(f) Records created by a licensee during the scope of the licensee's employment by educational institutions; by federal, state, or local government agencies; or political subdivisions or programs are not required to comply with the requirements of subsection (e) of this section.

(g) A licensee must retain and dispose of client records in such a way that confidentiality is maintained.

(h) In independent practice, the licensee must establish a plan for the custody and control of the licensee's client mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's professional services.

§801.50 Corporation and Business Names

When an assumed name is used in any practice of therapy, the name of the licensee must be listed in conjunction with the assumed name. An assumed name used by a licensee may not be false, deceptive, or misleading.

§801.53 Advertising and Announcements

(a) Information used by a licensee in any advertisement or announcement of services may not contain information which is false, misleading, deceptive, inaccurate, incomplete, out of context, or not readily verifiable. Advertising includes any announcement of services, letterhead, business cards, commercial products, and billing statements. Only the highest academic degree earned from an accredited college or university or only the highest academic degree earned at a foreign

university that has been determined to be equivalent to a degree from an accredited institution or program by a member of the National Association of Credential Evaluation Services and relevant to the profession of therapy or a therapy-related field shall be used when advertising or announcing therapeutic services to the public or in therapy-related professional representations. A licensee may advertise or announce his or her other degrees or equivalent degrees earned at foreign institutions from accredited colleges or universities if the subject of the degree is specified.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes any material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(c) The council imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name. A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) All advertisements or announcements of therapeutic services including telephone directory listings by a licensee must clearly state his or her license status by the use of a title such

as "Licensed Marriage and Family Therapist," "LMFT," "Licensed Marriage and Family Therapist Associate," "LMFT Associate," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S," or "LMFT Supervisor."

(e) A licensee may not include in advertising or announcements any information or any reference to certification in a field outside of therapy or membership in any organization that may be confusing or misleading to the public as to the services or legal recognition of the licensee.

(f) An LMFT or LMFT Associate holding a provisional license must indicate the provisional status on all advertisements, billing, and announcements of treatment by the use of the term "Provisional Licensed Marriage and Family Therapist" or "Provisional Licensed Marriage and Family Therapist Associate," as appropriate.

(g) If a licensee becomes aware of a misuse of a licensee's license certificate or misrepresentation of a licensee's services or the results of licensee's services, the licensee must report the misuse or misrepresentation to the Council within 30 days of becoming aware of the misuse or misrepresentation[~~take reasonable steps to correct or minimize the misuse or misrepresentation~~].

§801.54 Research and Publications

(a) In research with a human subject, a licensee is responsible for the welfare of the human subject throughout a project and must take reasonable precautions so the human subject suffers no injurious emotional, physical, or social effect.

(b) A licensee must disguise data obtained from a therapeutic relationship for the purposes of education or research to ensure full protection of the identity of the human subject client.

(c) When conducting and reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.

(d) A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to the licensee's research or publication.

§801.55 Parenting Coordination

(a) In accordance with the Texas Family Code, §153.601(3), "parenting coordinator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in the Texas Family Code, §153.606, in a suit affecting the parent-child relationship; and

(2) who:

(A) is appointed under Texas Family Code, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee who serves as a parenting coordinator is not acting under the authority of a license issued by the council, and is not engaged in the practice of marriage and family therapy. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the council, but rather the jurisdiction of the appointing court.

(c) A licensee who serves as a parenting coordinator has a duty to provide the information in subsection (b) of this section to the parties to the suit.

(d) Records of a licensee serving as a parenting coordinator are confidential under the Texas Civil Practices and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator shall comply with the Texas Civil Practices and Remedies Code, Chapter 154, relating to the release of information.

(e) A licensee may not provide marriage and family therapy services to any person while simultaneously providing parenting coordination services. The foregoing rule does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

§801.56 Parenting Facilitation

(a) In accordance with House Bill 1012, 81st Legislature, Regular Session, 2009, and Texas Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.

(b) In accordance with the Texas Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described by the Texas Family Code, §153.6061, in a suit affecting the parent-child relationship; and

(2) who:

(A) is appointed under Texas Family Code, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in resolving parenting issues through procedures that are not confidential; and

(B) is not appointed under another statute or a rule of civil procedure.

(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators must comply with all applicable requirements of the Texas Family Code, Chapter 153, and this section. Licensees must also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Texas Family Code, Chapter 153, or this section.

(d) In accordance with the Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator may not provide other marriage and family therapy services to any person while simultaneously providing parenting facilitation services. The foregoing rule does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

(e) In accordance with the Texas Family Code, §153.6101(b)(1), an LMFT Associate may not serve as a parenting facilitator.

(f) A licensee serving as a parenting facilitator uses child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in the Texas Family Code, Chapter 153.

(g) A licensee serving as a parenting facilitator must assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.

(h) A licensee serving as a parenting facilitator functions in four primary areas in providing services.

(1) Conflict management function. The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.

(2) Assessment function. A parenting facilitator must review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.

(3) Educational function. A parenting facilitator must educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.

(4) Coordination/case management function. A parenting facilitator must work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.

(i) A licensee serving as a parenting facilitator must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting

facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur may not be stated or implied.

(j) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used to avoid offering the opportunity for further coercion.

(k) A licensee serving as a parenting facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.

(l) A licensee serving as a parenting facilitator may not provide legal advice.

(m) A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.

(n) A licensee serving as a parenting facilitator may not begin to provide services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.

(o) A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(p) A licensee serving as a parenting facilitator:

(1) must end or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;

(2) may not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;

(3) may not coerce or improperly influence any party to make a decision;

(4) may not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and

(5) may not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.

(q) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. A licensee may not give or receive a commission, rebate, or similar remuneration for parenting facilitation or other professional referrals.

(r) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal

mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

(s) A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.

(t) A licensee serving as a parenting facilitator:

(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;

(2) may interview any individual who provides services to the children to assess the children's needs and wishes; and

(3) may communicate with the parties through face-to-face meetings or electronic communication.

(u) A licensee serving as a parenting facilitator must, before the beginning of the parenting facilitation process and in writing, inform the parties of:

(1) the limitations on confidentiality in the parenting facilitation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(v) Information obtained during the parenting facilitation process may not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the council.

(w) In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.

(x) A licensee serving as a parenting facilitator:

(1) must comply with all mandatory reporting requirements, including but not limited to Texas Family Code, Chapter 261, concerning abuse or neglect of minors;

(2) must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

(3) must maintain records necessary to support charges for services and expenses, and must make a detailed accounting of those charges to the parties and their counsel, if requested to do so;

(4) must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and

(5) must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.

(y) Records of a licensee serving as a parenting facilitator are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records shall be maintained for the period of time described in §153.6083(c) of the Texas Family Code (concerning Communications and Recordkeeping of Parenting Facilitator) or as otherwise directed by the court.

(z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the council.

(aa) Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator, or as directed by the written agreement of the parties, and/or formal order of the court.

(bb) All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(cc) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(dd) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

(ee) A licensee serving as a parenting facilitator:

(1) must complete minimum training as required by the Texas Family Code, §153.6101, as determined by the appointing court;

(2) must have extensive practical experience with high conflict or litigating parents;

(3) must complete and document upon request advanced training in family dynamics, child maltreatment, co-parenting, and high conflict separation and divorce; and

(4) must regularly complete continuing education related to co-parenting issues, high-conflict families and the parenting coordination and facilitation process.

(ff) A licensee serving as a parenting facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.

(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (cc) of this section, is based on functional skills taught during the training rather than the use of specific titles or names.

§801.57 Child Custody Evaluations

(a) Licensees must comply with all applicable statutes and rules, including but not limited to Texas Family Code, Chapter 107, Subchapters D, E, and F (relating to Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions).

(b) When a licensee who has conducted a court-ordered child custody evaluation or adoption evaluation receives any complaint relating to the outcome of the evaluation, the licensee must report the complaint to the court that ordered the evaluation. See council rules, found in §884.3 of this title (relating to Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations).

(c) Disclosure of confidential information in violation of Texas Family Code, §107.111 (relating to Child Custody Evaluator Access to Investigative Records of Department of Family and Protective Services; Offense) or §107.163 (Adoption Evaluator Access to Investigative Records of Department of Family and Protective Services; Offense) is grounds for disciplinary action, up to and including license revocation.

(d) A licensee may not provide any other type of service, neither sequentially nor simultaneously in the same case that he or she provides a child custody evaluation, unless required by court order.

(e) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child in accordance with Texas Family Code, Chapter 107, Subchapter D.

(f) Before beginning child custody evaluations or adoption evaluations, a licensee must inform the parties in writing of:

(1) the limitations on confidentiality in the evaluation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation, and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(g) An LMFT Associate may not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services or otherwise allowed by law.

§801.58 Technology-Assisted Services

(a) Licensees who provide marriage and family therapy to clients or supervision to supervisees outside the State of Texas must comply with the laws and rules of Texas and of the out-of-state authority which govern the practice of marriage and family therapy.

(b) Licensees who provide treatment, consultation, and supervision using technology-assisted services must meet the same standards of appropriate practice as licensees who practice in traditional (i.e., in-person) settings.

(c) In accordance with Texas Occupations Code, §502.251 (relating to License Required), a person may not practice as a marriage and family therapist unless the person holds a license under this chapter or is exempt under Texas Occupations Code, §502.004 (relating to Application of Chapter)

(d) [~~Before providing technology-assisted services, a licensee must receive appropriate education, training, or supervised experience in using relevant technology. A therapist who uses technology-assisted services must maintain documentation of academic preparation and supervision in the use of technology-assisted services as part of the therapist's academic program or the substantial equivalent provided through at least eight hours of continuing education and 2 hours every subsequent renewal period.~~] A licensee may provide technology-assisted services. To ensure the competent delivery of services by technology-assisted means, a licensee must maintain an appropriate level of education, training, or experience in using relevant technology. A licensee who provides technology assisted services must complete a minimum of two hours of continuing education in technology-assisted services every renewal period.

(e) A licensee may not render therapy using technology-assisted services without complying with the following at the onset of each session:

(1) fully verifying the location and identity of the client, to the most reasonable extent possible; and

(2) disclosing the identity of the licensee.

(f) Before providing technology-assisted services, a licensee must determine whether a client is a minor. Upon determining that a client is a minor, and before providing technology-assisted services, a licensee must obtain required consent from a parent or guardian and must verify the identity of the parent, guardian, or other person consenting to the minor's treatment.

(g) The licensee must determine if technology-assisted service is an appropriate delivery of treatment or supervision, considering the professional, intellectual, or emotional needs of the client or supervisee.

(h) Informed consent must include, at a minimum, information that defines electronic service delivery as practiced by the licensee and the potential risks and ethical considerations. The licensee must obtain and maintain written or electronic evidence documenting appropriate client informed consent for the use of technology-assisted services. The licensee must ensure that the informed consent complies with other informed consent requirements in this chapter and must include the following:

(1) identification of the client, the therapist, and the therapist's credentials;

(2) list of services provided by the licensee using technology-assisted services;

(3) client agreement that the therapist determines on an on-going basis whether the condition being assessed or treated is appropriate for technology-assisted services;

(4) details on security measures taken with the use of technology-assisted services, as well as potential risks to privacy notwithstanding such measures;

(5) information regarding secure protocols and back-up plans in case of technical failure;

(6) the licensee's credentials or training to engage in technology-assisted services, [~~physical location of practice,~~] and contact information;

(7) risks and benefits of engaging in the use of technology;

(8) emergency procedures to follow when the therapist is not available;

(9) information collected and any passive tracking mechanisms used;

(10) third-party websites or services used by the licensee to facilitate technology-assisted services; and

(11) an explanation of how records are maintained electronically, including encryption type and record security, and the archival storage period for transaction records.

(i) Therapists who use technology-assisted services must meet or exceed applicable federal and state legal requirements of health information privacy, including compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191; The Health Information Technology for Economic and Clinical Health (HITECH) Act, 42 U.S.C. Chapter 156, Subchapter III; Texas Health and Safety Code, Chapter 181 (relating to Medical Records Privacy); and state privacy, confidentiality, and security rules.

SUBCHAPTER C. APPLICATIONS AND LICENSING.

§801.71 Purpose of Applications and Licensing

The purpose of this subchapter is to set out the application procedures for examination and licensure as an LMFT and LMFT Associate.

§801.74 Application to Take Licensure Examination

An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §882.1 and §882.2 (concerning Application Process and General Application File Requirements);

(2) in lieu of an official transcript as required in council rules, a letter from a college or university official stating the applicant is in good academic standing and has completed or is enrolled in a graduate internship in marriage and family therapy or an equivalent internship may be submitted to approve the applicant to sit for licensure examination, but the applicant must still submit an official transcript before the license may be issued;

(3) a copy of government-issued picture identification (i.e., driver's license, passport); and

(4) an Examination Security Information Acknowledgement Form.

§801.75 Application for Licensed Marriage and Family Therapist Associate (LMFT Associate)

(a) Qualifications. An applicant for LMFT Associate must meet the qualifications required by §502.252(b) of the Act.

(b) Application Requirements. An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §882.1 and §882.2 (concerning Application Process and General Application File Requirements);

(2) Supervisory Agreement Form; and

(3) proof of achieving a passing score on a licensure examination.

(c) Academic Requirements. An applicant for LMFT Associate must meet the education requirements as prescribed in §801.112 of this title (relating to General Academic Requirements). Staff may require an applicant to submit a council-approved educational equivalency form.

§801.76 Application for Licensed Marriage and Family Therapist (LMFT)

(a) Qualifications. An applicant for LMFT must meet the qualifications required by §502.252(b) of the Act.

(b) Application Requirements. An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §882.1 and §882.2 (relating to Application Process and General Application File Requirements;

(2) a licensed Supervised Experience Verification Form; and

(3) proof of achieving a passing score on a licensure examination.

(c) Academic Requirements. An applicant for LMFT must meet the education requirements as prescribed in §801.112 of this title (relating to General Academic Requirements). Staff may require an applicant to submit a council-approved educational equivalency form.

(d) Supervised Clinical Experience Requirements and Conditions. An applicant for LMFT must meet the supervised clinical experience requirements and conditions as mandated in §801.142 of this title (relating to Supervised Clinical Experience Requirements and Conditions).

§801.112 General Academic Requirements

(a) An applicant must submit an official transcript showing:

(1) a master's or doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);

(2) a master's degree from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), Marriage, Couples, and Family Counseling (MCFC) specialization which meets the requirements of §801.114(b)(8) of this title (relating to Academic Course Content) and starts on or after January 1, 2017, (the earliest class reported on one of an applicant's official transcripts denotes the start of a program); or

(3) a master's or doctorate degree from a regionally accredited institution of higher education in marriage and family therapy or in a related mental health field with a planned course of study in marriage and family therapy as described in §801.113(b), (c), and (d) of this title (relating to Academic Requirements) with the required minimum course content as described in §801.114 of this title.

(b) An applicant with foreign degree or coursework must comply with council rules, 22 Texas Administrative Code §882.11 (relating to Applicants with Foreign Degrees).

(c) An applicant must submit a course description from an official school catalog or syllabus for any course listed on the transcript with a title not self-explanatory or apparently relevant to academic requirements.

(d) The council will not accept any undergraduate courses as meeting any academic requirements unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the school.

(e) The council will accept as meeting academic requirements only those courses shown on the applicant's transcript as:

(1) part of the applicant's program of studies and as completed with a passing grade or for credit; or

(2) taken outside the applicant's program of studies and completed with at least a "B" or "pass."

(f) The council will consider a quarter hour of academic credit as two-thirds of a semester hour.

§801.113 Academic Requirements

(a) An applicant for the licensure examination must have completed or be enrolled in a council-approved marriage and family therapy graduate internship.

(b) An applicant for LMFT Associate or LMFT must have a master's or doctorate degree in marriage and family therapy or a master's or doctorate degree in a related mental health field with course work and training determined by the council to be substantially equivalent to a graduate degree in marriage and family therapy from a regionally accredited institution of higher education or an institution of higher education approved by the council with (the earliest class reported on one of an applicant's official transcripts denotes the start of a program):

(1) at least 45 semester hours for an applicant who started a program before August 1, 2017; or

(2) at least 60 semester hours for an applicant who started a program on or after August 1, 2017.

(c) A degree or course work in a related mental health field must have been a planned course of study designed to train a person to provide direct services to assist individuals, families or couples in a therapeutic relationship in the resolution of cognitive, affective, behavioral or relational dysfunctions within the context of marriage or family systems.

(d) Examples of degrees in a related mental health field may include counseling, psychology, social work, or family studies with an emphasis on Marriage and Family Therapy. Degrees in fields other than those listed may be reviewed for eligibility toward course equivalency in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).

§801.114 Academic Course Content

(a) An applicant who holds a graduate degree in a mental health-related field must have course work in each of the following areas:

(1) theoretical foundations of marriage and family therapy--three semester hours;

(2) assessment and treatment in marriage and family therapy--12 semester hours;

(3) human development, gender, multicultural issues and family studies--six semester hours;

(4) psychopathology--three semester hours;

(5) professional ethics--three semester hours;

(6) applied professional research--three semester hours; and

(7) supervised clinical internship--12 months or nine semester hours.

(b) An applicant who begins a graduate degree program in marriage and family therapy or a mental health-related field on or after August 1, 2017, must complete course work and the minimum required semester hours in each of the following areas (the earliest class reported on one of an applicant's official transcripts denotes the start of a program):

(1) theoretical knowledge and foundations of marriage and family therapy--three semester hours--including the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy;

(2) assessment and treatment in marriage and family therapy--12 semester hours--including but is not limited to treatment approaches specifically designed for use with a wide range of diverse couples, families, and children, including sex therapy, same sex couples, young children, adolescents, interfaith couples, crisis intervention, and elderly;

(3) human development, gender, multicultural issues and family studies--six semester hours;

(4) psychopathology--three semester hours--including traditional psycho-diagnostic categories including knowledge and use of the Diagnostic and Statistical Manual of Mental Disorders;

(5) professional ethics--three semester hours--including professional identity of the marriage, couple, and family therapist, including professional socialization, scope of practice, professional organizations, licensure and certification; and ethical issues related to the profession of marriage, couple, and family therapy as well as the practice of individual therapy;

(6) applied professional research--three semester hours--including research evidence related to MFT, becoming an informed consumer of research, and research and evaluation methods;

(7) treatment of addictions and management of crisis situations--no minimum requirements;

(8) supervised clinical internship--12 months or nine semester hours. During the supervised clinical internship, the applicant must have 300 hours of experience, of which:

(A) at least 150 hours must be direct client contact hours; and

(B) of the 150 direct client contact hours, at least 75 hours must be direct client contact with couples and families.

(c) The remaining courses needed to meet the 45 or 60 graduate semester hour requirement must be marriage and family therapy or related course work in areas directly supporting the development of an applicant's professional marriage and family, individual, or group therapy skills.

(d) Staff may issue an LMFT Associate license to an applicant who has a deficiency in pre-graduate internship months, semester hours, or clock hours required by subsection (a)(7) or (b)(8) of this section, but must require the applicant to complete the deficient months, semester hours, or clock hours in addition to the post-graduate, licensed supervised clinical experience requirements in §801.142 of this title (relating to Supervised Clinical Experience Requirements and Conditions) before awarding an LMFT license to that applicant.

§801.115 Academic Requirements and Supervised Clinical Internship Equivalency for Applicants Currently Licensed as an LMFT in Another Jurisdiction

An applicant currently licensed as a marriage and family therapist in another jurisdiction of the United States who does not meet the academic requirements in §801.114 of this title (relating to Academic Course Content) may be considered to have met the requirements according to the following:

(1) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, the academic requirements (including the internship) are considered met.

(2) If an applicant has been licensed as an LMFT in another United States jurisdiction for less than two consecutive years immediately preceding the date the application is received, staff may grant one month of credit for every two months of independent marriage and family therapy practice toward any deficit in the academic internship requirement.

§801.142 Supervised Clinical Experience Requirements and Conditions

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of[~~including at least~~] 3,000 hours of supervised clinical practice. The required 3,000 hours must include:[~~, of which:~~]

(A) at least 1,500 hours [~~must be~~] providing direct clinical services, of which:[~~with~~]

(i) no more than 500 hours may be provided via technology-assisted services (as approved by the supervisor); and

(ii) at least 500 hours must be providing direct clinical services to couples or families.

(B) at least 200 hours of council-approved supervision, as defined in §801.2 of this title (relating to Definitions), of which:[~~of the 1,500 hours of direct clinical services, at least 500 hours must be providing direct clinical services to couples or families.~~

[~~(C) of the 3,000 hours of supervised clinical practice, at least 200 hours must be council-approved supervision as defined in §801.2 of this title (relating to Definitions), of which:~~]

(i) at least 100 hours must be individual supervision; and

(ii) no more than 50 hours may be provided by telephonic services, but there is no limit for hours by live video.[~~;~~]

[~~(iii) with unlimited hours by live video; and~~

~~(iv) while providing services, the LMFT Associate must participate in a minimum of one hour of supervision every week, except for good cause shown.~~]

[~~(D) The remaining hours may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.~~]

(2) The remaining required hours, not covered by subsection (1) above, may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.

(3) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.

(4)[~~(2)~~] Staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title (relating to Academic Course Content) toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.

(A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(C) No more than 100 excess graduate internship supervision hours may be counted toward the minimum requirement of at least 200 hours of council-approved supervision.

(5)[~~(3)~~] An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.

(6)[~~(4)~~] During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules.

(7)[~~(5)~~] Within 30 days of the initiation of supervision, an LMFT Associate must submit to the council a Supervisory Agreement Form for each council-approved supervisor.

(8)[~~(6)~~] An LMFT Associate may have no more than two council-approved supervisors at a time, unless given prior approval by the council or its designee.

(9)[~~(7)~~] Except as specified in paragraph (2) of this section, hours of supervision and supervised clinical experience accrued toward an out-of-state LMFT license may be accepted only by endorsement.

(A) The applicant must ensure supervision and supervised experience accrued in another jurisdiction is verified by the jurisdiction in which it occurred and that the other jurisdiction provides verification of supervision to the council.

(B) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, the supervised clinical experience requirements are considered met. If licensed for any other two-year period, the application will be reviewed to determine whether clinical experience requirements have been met in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).

§801.143 Supervisor Requirements

(a) To apply for supervisor status, an LMFT in good standing must submit an application and applicable fee as well as documentation of the following:

(1) completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and

(A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution; or

(B) a 40-hour continuing education course in clinical supervision; or

(2) designation as an approved supervisor or supervisor candidate by the American Association for Marriage and Family Therapy (AAMFT).

(b) A supervisor may not be employed by the person he or she is supervising.

(c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.

(d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:

(1) a photocopy of the submitted Supervisory Agreement Form;

(2) proof of council approval of the Supervisory Agreement Form;

(3) a record of all locations at which the LMFT Associate will practice;

(4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference; and

(5) a copy of any written plan for remediation of the LMFT Associate.

(e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.

(f) Both the LMFT Associate and the council-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.

(1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.

(2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.

(3) A supervisor may not supervise more than 12 persons at one time.

(4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate.

(5) A supervisor must timely submit accurate documentation of supervised experience.

(g) Supervisor status expires with the LMFT license.

(h) To maintain council approval, a supervisor must successfully complete the following continuing education each renewal period:

(1) at least three hours of clinical supervision continuing education; and

(2) the jurisprudence exam.

(i) A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent himself or herself as a supervisor in any manner.

(j) A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.

(k) A supervisor who becomes subject to a council disciplinary order is no longer an approved supervisor. The person must:

(1) inform each LMFT Associate of the council disciplinary order;

(2) refund all supervisory fees received after date the council disciplinary order was ratified to the LMFT Associate who paid the fees; and

(3) assist each LMFT Associate in finding alternate supervision.

(l) Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.

(m) The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

§801.174 Licensure and Jurisprudence Examinations

(a) The council will accept the national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(b) An applicant must apply to take the licensure examination per §801.74 of this title (relating to Application to Take Licensure Examination). The applicant must pay the examination fee to the appropriate party as dictated by the current examination contract or agreement.

(c) The council, or its designee, will determine the times and places for licensing examinations and give reasonable public notice.

(d) The council, or its designee, will notify the examinee of the results of the licensure examination in accordance with the current examination contract or agreement. If the council is notified of a potential delay of notification of exam results, the council will notify the examinee as soon as possible regarding the delay.

(e) An applicant who fails the national licensure examination must comply with council rules, 22 Texas Administrative Code, §882.6 (relating to Limitation on Number of Examination Attempts).

(f) All applicants must comply with council rules, 22 Texas Administrative Code, §882.5 (relating to Jurisprudence Examination Requirement).

§801.202 LMFT Associate License

(a) The initial LMFT Associate license will be issued for a period of 24 months and may be renewed biennially for a period not to exceed a total of 72 months.

(b) An LMFT Associate who has held the LMFT Associate license for 72 months and submitted documentation to the council to satisfy all minimum requirements for LMFT licensure, except the 500 hour requirement set in §801.142(1)(B) of this title (relating to Supervised Clinical Experience Requirements and Conditions) and requiring at least 500 hours of direct clinical services to couples or families, may renew his or her LMFT Associate license only once more (not exceeding 96 months of licensure as an LMFT Associate).

(c) An LMFT Associate who has held the LMFT Associate license for 72 months (or 96 months if subsection (b) of this section applies) and has not met the minimum requirements for LMFT licensure, may not renew but must reapply for the LMFT Associate license, meeting all current application requirements and passing the national licensure examination no more than six months before the date the application is received.

§801.203 Provisional LMFT License

(a) A provisional license may be granted to a person who:

(1) is licensed or otherwise registered as a marriage and family therapist by another state or other jurisdiction, whose requirements for licensure or registration, at the time the license or registration was obtained, were substantially equivalent to the requirements set out in §801.76 of this title (relating to Application for Licensed Marriage and Family Therapist (LMFT));

(2) has successfully passed a national examination relating to marriage and family therapy or an examination approved by the council;

(3) is sponsored by a Texas LMFT with whom the provisional license holder may practice under this section;

(4) provides documentation, on council prescribed forms, of the experience requirements set out in §801.142 of this title (relating to Supervised Clinical Experience Requirements and Conditions) and §801.143 of this title (relating to Supervisor Requirements); and

(5) meets any other requirements set forth under the Act.

(b) Upon formal written request, the council may waive the requirement set out in subsection (a)(3) of this section, if the council determines that compliance with subsection (a)(3) of this section, would cause undue hardship to the applicant.

(c) The council will issue a license to a holder of a provisional license if:

(1) the provisional license holder passes the examinations required by §801.174 of this title (relating to Licensure and Jurisprudence Examinations);

(2) the provisional license holder provides official graduate transcripts meeting the requirements set forth in §801.112 through §801.115 of this title (relating to General Academic Requirements, Academic Requirements, Academic Course Content, and Academic Requirements and Supervised Clinical Internship Equivalency for Applicants Currently Licensed as an LMFT in Another Jurisdiction, respectively);

(3) the provisional license holder provides documentation, on council prescribed forms, of the experience requirements set out in §801.142 and §801.143 of this title (relating to Supervised Clinical Experience Requirements and Conditions and relating to Supervisor Requirements, respectively); and

(4) the provisional license holder meets any other requirements set forth under the Act.

(d) The council must complete the processing of a provisional license holder's application for an LMFT license within 180 days after the provisional license was issued. The council may extend the 180-day deadline to allow for the receipt and tabulation of pending examination results.

§801.204 Licensing of Military Service Members, Military Veterans, and Military Spouses

(a) An applicant for licensure under this section must comply with council rules, 22 Texas Administrative Code, §882.60 (relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses).

(b) An applicant's qualifications that either match or exceed Texas licensure requirements are considered substantially equivalent.

(c) Upon request, an applicant must provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) For an application for a license submitted by a verified military service member or military veteran, the applicant will receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act, the Council Act, or council rules.

Commented [DS1]: Aug 14, MFT Board recommended withdrawal of this new rule as published in the July 10, 2020 edition of the Texas Register due to substantive changes needed based upon OOG concerns.

§801.263 Requirements for Continuing Education

(a) An LMFT must complete 30 clock hours of continuing education which is acceptable to the council each renewal period. Of the 30 clock hours required for LMFT license renewal, no more than 15 clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.

(b) An LMFT Associate must complete 15 clock hours of continuing education which is acceptable to the council each renewal period. Of the 15 clock hours required for LMFT Associate license renewal, no more than six clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.

(c) All licensees are required to complete six hours of ethics each renewal period.

§801.264 Types of Acceptable Continuing Education

To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations, the education must be received from a continuing education provider that:

(1) ensures the education provided is related to the practice of marriage and family therapy;

(2) ensures the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented;

(3) verifies attendance of participants and provides participants with a letter or certificate of attendance displaying the licensee's name, topic covered, date course was taken, and hours of credit earned;

(4) maintains all continuing education records and documentation for at least three years; and

(5) provides participants a mechanism for evaluation of each continuing education activity.

§801.266 Determination of Clock Hour Credits and Credit Hours Granted

The council credits continuing education activities that meet the criteria §801.264 of this title (relating to Types of Acceptable Continuing Education) on a one-for-one basis with one credit hour for each clock hour spent in the continuing education activity, unless otherwise designated in the provisions below:

(1) Completing the jurisprudence exam once per renewal period may count for one hour of the ethics requirement described in §801.263 (relating to Requirements for Continuing Education).

(2) Hours spent providing clinical supervision of a marriage and family therapy intern or an LMFT Associate may count for no more than one-half of the continuing education required each renewal period.

(3) A presenter of a continuing education activity may earn 1.5 hours for each approved hour of continuing education presented, not to exceed one-half of the continuing education required each renewal period. The same seminar or topic may not be used more than once biennially.

(4) An author of a book or peer reviewed article which enhances a marriage and family licensee's knowledge or skill may claim continuing education credit not to exceed one-half of the continuing education required each renewal period.

SUBCHAPTER D. SCHEDULE OF SANCTIONS.

§801.302 Severity Level and Sanction Guide

The following severity levels and sanction guides are based on the relevant factors in council rules, 22 Texas Administrative Code, §884.20 (relating to Disciplinary Guidelines and General Schedule of Sanctions).

(1) Level One--Revocation of license with a possible administrative penalty from $500 to $5,000. These violations evidence intentional or gross misconduct on the part of the licensee or cause or pose a high degree of harm to the public or may require severe punishment as a deterrent to the licensee, or other licensees.

(2) Level Two--Extended suspension of license with a possible administrative penalty from $250 to $2,500. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but may require termination of licensure for a period of not less than one year.

(3) Level Three--Moderate suspension of license with a possible administrative penalty of no more than $250. These violations are less serious than Level Two violations, but may require termination of licensure for a period of time that is less than a year.

(4) Level Four--Probated suspension of licensure. These violations do not involve enough harm, misconduct, or need for deterrence to warrant termination of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Probationary terms may be ordered as appropriate.

(5) Level Five--Reprimand. These violations involve inadvertent or relatively minor misconduct or rule violations not directly involving the health, safety and welfare of the public.

(6) An administrative penalty may be assessed for any violation, in lieu of, or in addition to, other disciplinary actions.

§801.303 Other Actions

A complaint may be resolved by issuance of a warning letter or a conditional letter of agreement which does not involve a formal disciplinary action.

(1) A warning letter informs the licensee of the licensee's duties under the Act, the Council Act, or council rules and whether the council has a concern about the circumstances surrounding the complaint.

(2) A "Conditional Letter of Agreement" informs the licensee of the licensee's duties under the Act, the Council Act, or council rules, whether the conduct or omission complained of appears to violate such duties, and creating council-ordered conditions for the long-term resolution of the issues in the complaint. This "Conditional Letter of Agreement" specifies the immediate disposition of the complaint. The licensee is issued the "Conditional Letter of Agreement" by staff; a signature of agreement by the licensee is required. If the licensee fails to comply with all the council-ordered conditions in the specified time frame outlined in the

"Conditional Letter of Agreement," staff will open a new complaint arising out of the non-compliance with a "Conditional Letter of Agreement" or the underlying conduct.

§801.305 Schedule of Sanctions

The following standard sanctions shall apply to violations of Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Figure 22 TAC §801.305

Rule	**Action**
801.43(b) Report alleged violations or misrepresentation	Warning Letter
801.43(c) Identify license, status, or other restriction	Warning Letter
801.43(d) Make false statement	Level 5 Reprimand
801.43(g) Make reasonable effort to prevent other's false statement	Warning Letter
801.44(a) Provide services only in the context of a professional relationship	Level 5 Reprimand
801.44(b) Fail to provide written information	Level 5 Reprimand
801.44(c) Fail to obtain appropriate consent or custody order	Level 5 Reprimand
801.44(d) Fail to provide written information regarding confidentiality	Level 5 Reprimand
801.44(e) Refer for pay	Level 3 Administrative Penalty
801.44(f) Exploit trust	Level 4 Probated Suspension
801.44(g) Act to meet personal needs	Level 4 Probated Suspension
801.44(h) Provide services to family, friends, educational or business associates, or others	Level 5 Reprimand
801.44(i) Maintain professional boundaries with clients and former clients	Level 5 Reprimand
801.44(k) Protect individual from harm resulting from group interaction	Warning Letter
801.44(l) Avoid non-therapeutic relationship with clients and former clients	Conditional Letter of Agreement
801.44(m) Bill only for services actually rendered or as agreed in writing	Level 5 Reprimand
801.44(n) End professional relationship when client is not benefitting	Level 4 Probated Suspension
801.44(n) Provide written referral and facilitate transfer to appropriate care	Conditional Letter of Agreement
801.44(o) Technology-assisted services, provide license number and council's contact information	Warning Letter
801.44(p) Provided services within competency and professional standards	Level 4 Probated Suspension
801.44(q) Base services on client assessment, evaluation, or diagnosis	Level 4 Probated Suspension

801.44(s) Promote or encourage illegal use of alcohol or drugs	Level 1 Revocation
801.44(t) Provide services to client served by another	Level 5 Reprimand
801.44(u) Aid or abet or fail to report unlicensed practice	Level 2/3 Suspension

On August 14, 2020 MFT Board recommended adoption *with* changes to the following rules.

- §801.2 technical correction – add a comma (OOG comment)
- §801.43(b) – reword for clarity (OOG comment)
- §801.43(g) – reword for clarity
- §801.44(c) – technical correction – cite statute
- §801.44(s) – move to §801.47 (public comment)
- §801.44(w) - reword for clarity (OOG comment)
- §801.47 – incorporate provision from §801.44(s) (public comment)
- §801.53(g) - reword for clarity (OOG comment)
- §801.58(d) – remove prerequisite training requirement (OOG comment)
- §801.58(h)(6) – remove requirement to disclose location (public comment)
- §801.142(1) - reword for clarity (OOG comment)

On August 14, 2020 MFT Board recommended adoption of repeal:

- §801.204 in Subchapter I

On August 14, 2020 MFT Board recommended withdrawal of proposed:

- §801.204 in Subchapter C

On August 14, 2020 MFT Board recommended for publication of proposed rule change:

- substantively revised §801.204(b) and technical correction in (d) in Subchapter C

Except for those listed above, on August 14, 2020 MFT Board recommended adoption *without* changes remaining proposed rules published in July 10 edition of *Texas Register*.

Comments received for the proposed rules – LMFT

Kenneth Bateman – 801.58

Jonathan Cogburn – hours

Sandra Khalil – 801.58, 801.142

Rodney Smith – 801.142

Jodie Elder – 801.142, 801.58, 801.74, 801.263, 801.11801.12, 801.15, 801.47, 801.49, 801.73, 801.91-93, 801.234, 801.236, 0810.304, 801.114, 801.58, 801.201

Jan Friese – 801.11, 801.12, 801.15, 801.58, 081.74, 801.142, 801.263, 801.49, 801.201

RECEIVED AFTER THE OPEN PERIOD:

Martin, Jason – 801.58, 801.142, 801.263,

Gmail

Brenda Skiff <brenda@tsbep.state.tx.us>

Support of Rule Changes to 801.58 Technology Assisted Services

3 messages

Ken Bateman <kenbateman29@yahoo.com> Wed, Jul 15, 2020 at 8:35 PM
To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

I would like to state my support of the change in the Marriage and Family rules regarding the reduction of the number of hours required for Technology-Assisted-Counseling from 15 hours to 8 hours. Having presented this course a number of times I believe the training can be covered in the 8 hours. This is a benefit to the therapist in that they don't have to spend an extra day away from their office and clients.

Kenneth V. Bateman, LMFT

Brenda Skiff <brenda@tsbep.state.tx.us> Wed, Jul 22, 2020 at 10:01 AM
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us> Wed, Aug 5, 2020 at 2:07 PM
To: Darrel Spinks <Executive.Director@tsbep.texas.gov>

LMFT Comment
[Quoted text hidden]

Gmail

Brenda Skiff <brenda@tsbep.state.tx.us>

Proposed Changes to 22 TAC Ch. 801

3 messages

Jonathan Cogburn <jonathan.mft@gmail.com> Sat, Jul 18, 2020 at 12:02 PM
To: Open.Records@tsbep.texas.gov

To Whom it May Concern,

I support the proposed rule changes to the above rules in the Texas administrative code regarding the practice of marriage and family therapy. I believe the reduction in the total number of relational hours required will be adequate to ensure experience of new licensees, but will also lower the threshold of entry to the field, thereby allowing licensees to attain adequate compensation earlier in their career. Many of the jobs taken by recent graduates provide dismal pay compared to the expertise our graduates hold. I worked for 20 months after graduation as a mental health case manager and suicide crisis worker for less than $13 an hour, 30 miles away from my home in Abilene, ultimately having to take on extra debt just to finish my license.

I also agree with the proposed change to TAS certification training. It is my understanding that graduate programs are providing more training as a part of basic curriculums in TAS psychotherapy, and that combined with an eight hour certification process would provide adequate basis of knowledge.

Thank you very much for your attention to these matters.

Jonathan Cogburn, LMFT
Abilene, TX

Brenda Skiff <brenda@tsbep.state.tx.us> Wed, Jul 22, 2020 at 10:01 AM
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us> Wed, Aug 5, 2020 at 2:07 PM
To: Darrel Spinks <Executive.Director@tsbep.texas.gov>

LMFT Comment
[Quoted text hidden]

Brenda Skiff

From: Sandra Khalil <srkhalil292@gmail.com> on behalf of Sandra Khalil
Sent: Wednesday, July 22, 2020 10:00 AM
To: Open.Records@tsbep.texas.gov
Subject: Comment on Proposed Changes to LMFT Rules

Hello,

I would like to comment on rule 801.58 (d) in the LMFT Rules. I am in favor of changing the telehealth education requirements from 15 hours to 8 hours. After taking a 12 hour course in telehealth, I felt I would have been sufficiently prepared after 8 hours of education of the ethical guidelines and concerns regarding telehealth and how to conduct these services properly.

I would also like to comment on rule 801.142 (1) (A) indicating that the required direct relational hours will go from 750 to 500. I agree with this rule change because I believe that after about 500 hours of relational experience, the LMFT-Associate should be able to conceptualize and plan treatment for couples and families especially after receiving adequate supervision.

Thank you,

Sandra Khalil, M.S., LMFT-Associate
Supervised by Dr. Kenneth Bateman, Ed.D, LMFT-S
281-794-2066 | srkhalil292@gmail.com

Brenda Skiff

From: rodney smith <rodney_e_smith@outlook.com> on behalf of rodney smith
Sent: Friday, August 7, 2020 7:27 PM
To: open.records@tsbep.texas.gov
Subject: LMFT Rules - Public Comment

ATTN: Public Information Officer

Please find public comments in reference to the LMFT Board's proposed rules below.

Rodney Smith, MBA, MA

Public Comments regarding 801.142:

- Technology assisted services continues to expand as a therapeutic medium. Limiting technology assisted services as a medium; limits the opportunities for LMFT associates to accrue experience.
- Consider adding "couples or families as defined by the client". This keeps these concepts within the definition of the client and culturally competent.
- Moving supervision to a monthly requirement provides greater flexibility for supervisors and associates while still maintaining and adequate amount of supervision.

§801.142. Supervised Clinical Experience Requirements and Conditions.
An applicant for LMFT must complete supervised clinical experience acceptable to the council.

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy including at least 3,000 hours of supervised clinical practice, of which:

(A) at least 1,500 hours must be providing direct clinical services, ~~with no more than 500 hours provided via technology-assisted services (as approved by the supervisor); and~~

(B) of the 1,500 hours of direct clinical services, at least 500 hours must be providing direct clinical services to couples or families <u>as defined by the client</u>.

(C) of the 3,000 hours of supervised clinical practice, at least 200 hours must be council-approved supervision as defined in §801.2 of this title (relating to Definitions), of which:

(iv) while providing services, the LMFT Associate must participate in a minimum of ~~one hour of supervision every week~~ of four hours per month in a minimum of two separate sessions, except for good cause shown.

Brenda Skiff

From: Jodie Elder <jodie_elder@hotmail.com> on behalf of Jodie Elder
Sent: Sunday, August 9, 2020 9:05 PM
To: open.records@tsbep.texas.gov
Subject: Public Comments on Ch 801
Attachments: Elder - Comments on TSBEMFT Proposed Rules Aug 2020 FINAL.pdf

Hello Mrs. Skiff,

Please verify receipt of the attached document, which provides my public comment on the proposed rule revisions for Chapter 801.

Thank you for your time and attention,
Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT
Adjunct Faculty, Southern Methodist University
Speaker and Presenter
TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists

August 9, 2020

Brenda Skiff, Public Information Officer
Texas State Board of Psychologists
333 Guadalupe, Ste. 2-450
Austin, Texas 78701

RE: Comments on Proposed Rules, Chapter 801, *Texas Register*, July 10, 2020

Dear Mrs. Skiff,

Please accept the following public comment on proposed rule changes for Chapter 801, Licensure and Regulation of Marriage and Family Therapists. As the TSBEMFT Board Liaison for the Texas Counseling Association, I would like to commend the staff and board members for their diligent and meticulous consideration of the proposed changes.

In addition, I want to thank the Board for their openness to stakeholder feedback. Their dedication to careful consideration of public comments is a testament to their true collaborative nature. Please know that the following feedback is respectfully submitted after a thorough review of current TSBEMFT rules, proposed TSBEMFT rules, and recently enacted BHEC rules.

AREAS OF SUPPORT:

801.142(1)(B) Supervised Clinical Experience Requirements: I strongly support this rule change to reduce the required direct clinical service hours with couples and families during a post-graduate associate period from 750 to 500 hours. I propose that 500 hours is adequate to provide a firm foundation of experience with couples and families, and this reduction will help remove barriers to clinicians pursuing licensure as a Marriage and Family Therapist.

801.58(d) Technology-Assisted Services: I strongly support the reduction in training requirements from 15 to 8 hours to deliver technology-assisted services. Eight hours is sufficient to cover needed information to provide these services. In addition, eight hours is more readily completed and does not pose an undue burden on licensees who wish to begin providing services in this manner.

801.74(2) Application to Take Licensure Examination: I commend the Board for retaining this rule to allow graduate students to apply for approval to sit for the licensing exam in their last semester of internship. This process facilitates an easier and more expedient transition for students from graduate school to work.

801.263 Requirements for Continuing Education: I support this rule change to require licensees to earn half of their continuing education hours in live virtual settings. The recent pandemic has emphasized the need for flexibility in the modalities for continuing education. This change will make it easier for licensees to earn their CE hours while also ensuring complete CE course completion.

SUGGESTED MODIFICATIONS:

801.11. The Board. (h)(1)(C): I suggest that this section be retained, as it provides a process for individuals wishing to add a topic to the Board agenda 30 days in advance of Board meetings. Removing this language would impede stakeholder engagement and delay the timeline for discussion or action by

the Board since the Board is not permitted to discuss or take action on items presented during public comment.

801.12. Petition for the Adoption of a Rule. I suggest that this rule be retained. Although BHEC rules provide for petitions to adopt rules, I feel that petitions for rules specifically related to licensing standards, scope of practice, and penalty matrices for LMFTs should be submitted directly to the Board because those are areas in which the Board has exclusive authority. These petitions should not be vetted first by BHEC but considered directly by the independent licensing board.

801.15. Impartiality and Non-Discrimination. I strongly disagree with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEMFT is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude inclusion of this rule. Many rules reflect language that is included in statute. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board.

801.47 Drug and Alcohol Use – As a technical correction, I suggest that 801.44(s) and 801.44(w) be placed under section 801.47, so that all rules related to drug and alcohol use are under the similarly titled section.

801.49(e) and (f) and (g)(1-4) and (h) are repealed, and I did not find similar rules in BHEC rules. I think that licensees should notify the Board/Council of new degrees and any criminal convictions relevant to their practice. Therefore, I suggest that these rules either be reinstated in TSBEMFT rules or added to BHEC rules.

801.73(4) is repealed, and no similar requirement is found in BHEC rules. Disclosing any licensures held in other jurisdictions is addressed under BHEC 882.61 for military spouses and BHEC 882.7 for emergency temporary license, but not in the BHEC rules regarding the general application process. This information may very well be gathered in the new online application process, but I'm not sure. Either way, I propose that this information needs to be gathered on the application forms, this rule needs to be retained in either TSBEMFT rules or added to BHEC rules, or both. The Board needs to be able to prevent clinicians licensed in other jurisdictions from coming to Texas without disclosing their other licenses, as we want to ensure clinicians hold a license in good standing and are not seeking licensure in Texas to escape sanctioned or revoked practice in another state.

801.91-801.93 have been repealed and the only similar section in BHEC rules is 882.4. However, this section does not state the grounds on which a license may be denied for non-fitness. I am concerned that the Board will not have any rules on which to base licensure denials for applicants they deem unfit to practice, which could pose a threat to the Texas public. I suggest that, at the very least, section 801.92 be retained in TSBEMFT rules or similar language be included in BHEC rules.

801.234(c) allows the Board to "grant the licensee additional time to complete continuing education requirements based on extraordinary circumstances, such as medical complications." However, this rule is repealed in the proposed rules, and no other similar rule can be found in BHEC rules. I suggest this rule be reinstated in the new TSBEMFT rules or added to BHEC rules, so the Board/Council has flexibility, supported in rules, to accommodate such circumstances.

801.236(h) addresses how to regain supervisory status when returning from inactive status. This rule is repealed but is not addressed in BHEC rules or new TSBEMFT proposed rules. I suggest this rule be reinstated in TSBEMFT rules or added to BHEC rules, so that licensees understand the implications of potentially losing and then having to reapply for their supervisory status when choosing to move to inactive status.

801.304 regarding reciprocal discipline is repealed, and I did not find anything similar in BHEC rules. If I understand correctly, these rules allow the Board to take action against a licensee who has a complaint against them with another licensing board, even if a similar complaint was not filed with the TSBEMFT Board. This is important to allow the Board to also sanction egregious licensee behavior that poses a threat to the public, so that a licensee who has violated rules is not able to continue practicing under an LMFT license when their other licenses have been suspended or revoked. Therefore, I suggest this rule either be retained in TSBEMFT rules or added to BHEC rules.

REQUEST CONSIDER FOR FUTURE TSBEMFT RULE REVISIONS: The following items are suggested modifications for TSBEMFT rules, but these rules are not currently under revision in the proposed rules. I would like to submit these recommendations for Board consideration, and I am also happy to submit these issues through the petition for the adoption of a rule if the Board wishes.

801.114(b)(8)(B) requires that students' supervised clinical internship (pre-graduate) include at least 75 hours of direct client contact with couples and families, which represents half of the required total 150 direct clinical contact hours. I suggest that this hour requirement be reduced to 50 hours, which would reflect 1/3 of the total required 150 hours, for the same reasons enumerated in support of the reduction of post-graduate internship hours in 801.142(1)(B).

801.58(6) – Disclosing licensee's "physical location of practice" may require a licensee to divulge his / her home address, especially since clinician's are practicing at home now more than ever before, and I expect this trend will continue even after the pandemic ends. I propose this rule be changed to disclosing licensee's "city of practice" as a way to provide needed information to clients while also protecting the clinician's home address.

REQUEST CONSIDER MODIFICATIONS FOR FUTURE BHEC REVISIONS: It is my understanding that the following area of importance would now fall under BHEC processes, and therefore I request that this item be considered either in TSBEMFT rules or in future BHEC rule revisions.

801.201(a) and (c) are repealed with no similar rule in BHEC. After an application for license is submitted, this rule gives the staff 30 days to either issue a new license or a notice of deficiency. This rule provides some reassurance of a timeline for when applicants should receive a response, so they are able to plan accordingly in their life, especially as it relates to job applications. Getting qualified and competent clinicians licensed in a timely manner benefits the citizens of the great state of Texas. Since application processes now fall under BHEC purview, I recommend this rule be included in BHEC rules.

Brenda Skiff

From: Jan Friese <Jan@TXCA.ORG> on behalf of Jan Friese
Sent: Monday, August 10, 2020 10:28 AM
To: Open.Records@tsbep.texas.gov
Cc: Michael DeVoll; Jodie_Elder
Subject: Comments on TSBEMFT Proposed Rule Changes, Texas Register July 10, 2020
Attachments: FY21_TSBEMFTProposedRules_TCAFormalComments_08.2020.pdf

Thank you for the opportunity. Attached are the formal comments submitted by Michael DeVoll on behalf of the Texas Counseling Association.

Action is essential. Without it thought can never ripen into truth. (Ralph Waldo Emerson)

Jan Friese
Executive Director
Texas Counseling Association
www.txca.org
512-472-3403, ext 11

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August 10, 2020

TO: Texas State Board of Examiners of Marriage and Family Therapists
FROM: Michael DeVoll, LPC S, TCA President
RE: Comments on Proposed Rules Title 22 TAC Chapter 801, *Texas Register,* July 10, 2020

The Texas Counseling Association, represents close to 7,000 professional counselors, including Licensed Marriage and Family Therapists. Thank you for the opportunity to submit comments on the proposed rule changes as published in the July 10th issue of the *Texas Register.*

TCA recognizes the challenge of transitioning the Board to the Texas Behavioral Health Executive Council (BHEC). We commend the Board for engaging stakeholders throughout this process. We acknowledge that most of the proposed rule changes are required for appropriate alignment of administrative functions across the four licensing boards housed at BHEC. We appreciate that many of our recommendations have already been incorporated into the rule changes.

In general, the proposed rules reflect the legislative intent of HB 1501 (86R). We support and agree with those amendments as indicated below. At the same time, TCA encourages you to retain several existing rules that support transparency and stakeholder engagement directly with your Board. Given that BHEC is a new and innovative model, it is important that the rules clearly delineate responsibilities specific to the Texas State Board of Examiners of Marriage and Family Therapists.

1) TCA recommends the following rules be retained:
   - §801.11. The Board. *Retain subsection (h)(1)(C).*
     - This section provides a process for a non-board member to request, 30 days in advance of a meeting, a topic be added to the Board's agenda. Removing this language will impede stakeholder engagement and delay the timeline for consideration or discussion by the Board. The only option to bring matters before the Board would be in public comment, where the Board is precluded from taking action, or by petitioning for rule changes. Removing this rule is not needed to streamline the transition to BHEC.

- §801.12. Petition for the Adoption of a Rule. *Retain.*
    - TSBEMFT has the authority to promulgate rules related to licensing standards, scope of practice and penalty matrices for LMFTs. Individuals seeking to amend and create rules in those areas should have the ability to petition directly to the TSBEMFT. BHEC rules include a process to petition for the adoption of a rule which is appropriate for the rules that govern BHEC. Petitions for those rules expressly under the authority of your board should not first be vetted by BHEC.
- §801.15. Impartiality and Non Discrimination. *Retain.*
    - TCA strongly disagrees with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEMFT is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude inclusion of this rule. Many rules reflect language that is included in statute to provide transparency and make it easy for licensees and the public to get information. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board.

2) TCA supports and commends the Board for the following rules:
- §801.58. Technology-Assisted Services (d).
    - TCA strongly supports reducing from 15 to 8 hours the training requirements to deliver technology-assisted services. Eight hours is sufficient to cover needed information to provide these services and will make it much easier for LMFTs to use technology to connect and work with clients.
- §801.74. Application to Take Licensure Examination. (2)
    - TCA commends the Board for retaining this rule to allow graduate students to apply for approval to sit for the licensing exam in their last semester of internship. This process facilitates and provides an easier and more expedient transition for students from graduate school to work.
- §801.142. Supervised Clinical Experience Requirements and Conditions. (1)(B)
    - Reducing the required direct clinical service hours with couples and families during a post-graduate associate period from 750 to 500 hours will help remove barriers to licensure for Marriage and Family Therapists. . TCA supports that 500 hours is adequate to provide a firm foundation of experience with couples and families.
- §801.263. Requirements for Continuing Education.
    - Allowing licensees to earn half of their required CE hours in virtual settings will make it much easier for licensees to continue their professional development. The recent pandemic has emphasized the need for flexibility in the modalities for continuing education.

3) Finally, several rules that provide clarity and guidance for both licensees and the public are being struck from Chapter 801. It was not readily apparent that similar rules have been adopted by BHEC. TCA recommends that as the transition to BHEC moves forward, focus be paid to ensure that these important and effective procedures remain in place:
   - §801.49 (f) and (g) require licensees to provide notice to the board within 30 days of receiving an academic degree relevant to the practice of marriage and family therapy; as well notice of arrest or other legal actions pending against the licensee.
   - §801.201. General Licensing. Currently, the Board is required to process licenses within 30 days of receipt and approval. Given that BHEC will manage applications, it makes sense to remove this rule from Chapter 801, however, the BHEC rules do not retain this standard.

Thank you for your service to Texas. We appreciate the opportunity to work with you and look forward to opportunities to collaborate in the future.

Michael DeVoll, TCA President

Gmail

Brenda Skiff <brenda@tsbep.state.tx.us>

Comment regarding TSBEMFT rules revisions

1 message

Jason Martin Ph.D. LMFT-S LPC-S <jason@jmartintherapy.net> Thu, Aug 13, 2020 at 4:03 PM
To: Open.Records@tsbep.texas.gov

On behalf of Texas Association of Marriage and Family Therapy, I respectfully submit comment on the following proposed rules revisions:

- §801.58 Reducing the initial training for technology-assisted services (TAS) from 15 hours to 8 hours: **TAMFT supports this change**
- §801.142 Reducing number of required hours of direct service experience with relationships from 750 to 500 hours: **TAMFT offers qualified support of this change.** Many members, myself included, believe that this contributes to watering down the distinctiveness of the LMFT licensure, and we are concerned about this leading down the line to removing the legal and philosophical differences between LMFT and other mental health professions. Many other members, however, recognize the burden that the relational hours put on new licensees to meet for full licensure and argue that the distinctiveness of the MFT profession and license lies in the theories and approach, rather than simply the relational hours requirement.
- §801.263 Allows licensees to earn 15 of 30 required CEU in non-real-time settings. Licensees can potentially earn all 30 online, but half must be in real-time, such as a live webinar, rather than asynchronous, such as a home-study or prerecorded training. **TAMFT supports this change**
- There has been significant discussion about removing AAMFT Approved Supervisor Candidates from the list of Board Approved supervisors (§801.143(a)2). **TAMFT is pleased that this matter was tabled for the time being.**This is an issue that TAMFT has great interest in monitoring and contributing to rectifying the supervisory "loophole" that was identified.

Jason Martin, Ph.D., LMFT-S, LPC-S
J. Martin Therapy
254-300-7565
Jason@jmartintherapy.net
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Belton, TX

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GOVERNOR GREG ABBOTT

To: Gloria Canseco, Chair
Darrel Spinks, Executive Director
Patrick Hyde, General Counsel
Texas Behavioral Health Executive Council

From: Erin Bennett, Director
Regulatory Compliance Division, Office of the Governor

Date: August 13, 2020

Subject: Proposed Title 22 Texas Administrative Code Section 801.58 (RCD Rule Review #2020-016)

I. Preface

The Texas Behavioral Health Executive Council ("council") proposed new 22 TAC §801.58, which governs the provision of technology-assisted services by marriage and family therapists and marriage and family therapist associates.[1] The council submitted the proposed rule to the Regulatory Compliance Division ("division") for review on July 14, 2020. The division invited public comments on the proposed rule for a 26-day period ending August 10, 2020, but received no comments.

II. Analysis

The council proposed new §801.58 in response to House Bill 1501, 86th Legislature, Regular Session (2019), which created the council and transferred the licensing and regulatory functions of the Texas State Board of Examiners of Marriage and Family Therapists ("board") to the new council. Sections 507.151 and 507.152, Texas Occupations Code, now direct the council to adopt rules to administer and enforce the board's governing statute. As part of the transfer of rulemaking authority from the board to the council, the council proposed new §801.58 to replace current §801.58. Both proposed and current §801.58 contain requirements for licensed marriage and family therapists and marriage and family therapist associates who provide treatment, consultation, or supervision through technology-assisted services. The council submitted proposed §801.58 to the division because the education requirements in Subsection (d) create a barrier to the provision of technology-assisted services and may reduce competition for those

[1] Rule Submission Memorandum from the Texas Behavioral Health Executive Council (July 14, 2020), at 1 (on file with the Regulatory Compliance Division of the Office of the Governor); 45 Tex. Reg. 4668 (2020) (to be codified at 22 TAC §801.58) (proposed July 10, 2020) (Tex. Behavioral Health Exec. Council).

services. [2] Therefore, proposed §801.58 affects market competition pursuant to Sections 57.105(d)(1) and (2), Texas Occupations Code.

Proposed §801.58(d) requires marriage and family therapists and marriage and family therapist associates to obtain education, training, or supervised experience in the use of relevant technology as part of their academic program, or the substantial equivalent provided through eight hours of continuing education, prior to providing technology-assisted services. While the council has a statutory duty to determine the qualifications for licensure as a therapist or associate and to adopt rules detailing those qualifications pursuant to Sections 502.151(1), 502.1515(1)(A), and 507.153(a)(1)(A), neither Chapter 502 nor Chapter 507 authorize the council to require a therapist or associate to complete additional education, training, or supervised experience after licensure in order to practice marriage and family therapy, including through a particular delivery method. Moreover, the council has not proposed additional prerequisites for any of its other licensees seeking to provide technology-assisted services. Instead, the council, as well as other health regulatory boards, allow licensees to provide technology-assisted mental health services so long as they abide by the standards of care for those services.[3] This aligns with Section 113.002, Texas Occupations Code, which allows licensed health professionals to provide mental health services within their scope of practice using telecommunications or information technology to clients in other states without mention of any additional education or training requirements. Ultimately, because the council has no express statutory authority to condition the practice of marriage and family therapy by licensees on the completion of additional prerequisites, the portion of proposed §801.58(d) requiring licensees to obtain education, training, or supervised experience in the use of relevant technology prior to providing technology-assisted services is inconsistent with state policy.

The other portion of proposed §801.58(d) requires marriage and family therapists and marriage and family therapist associates who provide technology-assisted services to complete two hours of continuing education relating to those services every licensure renewal period. In contrast to the prerequisites discussed above, continuing education does not prevent licensees from practicing within the scope of their license, but supports the ongoing competency of licensees. And, the council has clear statutory authority to adopt rules requiring continuing education in Sections 502.1515(1)(C) and 507.157. Similarly, the remaining provisions in proposed §801.58 are also consistent with state statute. Proposed §801.58(a) requires therapists and associates providing technology-assisted services to clients and supervisees in other states to comply with the laws of Texas and the out-of-state jurisdiction, which aligns with Sections 113.002 and 502.351(9). Proposed §801.58(c) requires individuals to be licensed to practice marriage and family therapy and explicitly identifies the source of this limitation as Section 502.251. Other provisions in proposed §801.58 establish standards of care for the provision of technology-

[2] Rule Submission Memorandum from the Texas Behavioral Health Executive Council (July 14, 2020), at 4-5.
[3] *See* 22 TAC §781.223 (2018) (Tex. State Bd. of Social Worker Exam'rs); 45 Tex. Reg. 4921 (2020) (to be codified at 22 TAC §781.323) (proposed July 17, 2020) (Tex. Behavioral Health Exec. Council); 22 TAC §174.9 (2017) (Tex. Medical Bd.); Texas Board of Nursing, *Frequently Asked Questions - Nursing Practice*, "Telehealth" (last updated 2019) https://www.bon.texas.gov/faq_nursing_practice.asp#t43.

assisted services, including the requirements that therapists and associates meet the same standards for traditional practice settings in Subsection (b), verify the identity of the client and provider in Subsection (e), obtain informed consent in Subsections (f) and (h), assess the appropriateness of technology-assisted service delivery in Subsection (g), and protect client privacy in Subsection (i). The establishment of these requirements furthers the directives in Sections 502.151(2), 502.1515(1)(B), and 507.153(a)(1)(B) that the council adopt standards of care and ethical practice for the practice of marriage and family therapy. Thus, while these provisions of proposed §801.58 may affect market competition, they are consistent with state policy as established in state statute.

III. Determination

The division commends the board for its diligent research in developing proposed §801.58, as well as its willingness to address stakeholders' concerns by reducing from 15 to eight the number of hours of education, training, or supervised experience required to provide technology-assisted marriage and family therapy services.[4] However, as explained above, the requirement in proposed §801.58(d) for a licensee to complete additional prerequisites prior to providing technology-assisted services is not consistent with state policy. Consequently, the proposed rule is disapproved by the division as written.

The division offers the following precise instructions for revision:

> Remove the requirement from proposed §801.58(d) for licensees to obtain and maintain documentation of education, training, or supervised experience in the use of technology-assisted services as part of their academic program, or the substantial equivalent provided through at least eight hours of continuing education, prior to providing technology-assisted services.

The council may adopt the proposed rule without resubmission to the division if it adheres to the precise instructions for revision and makes no additional substantive changes to the proposed rule. Alternatively, the council may propose different language to address the inconsistency identified by the division, but must resubmit the rule for approval by the division prior to adoption.

[4] Rule Submission Memorandum from the Texas Behavioral Health Executive Council (July 14, 2020), at 2-3.

LMFT Board recommends proposal of this revised version of the rule following the repeal of the existing rule and withdrawal of the version proposed in the July 10, 2020 edition of the Texas Register. This recommendation is based upon comments and concerns expressed by the OOG.

§801.204 Licensing of Military Service Members, Military Veterans, and Military Spouses

(a) An applicant for licensure under this section must comply with council rules, 22 Texas Administrative Code, §882.60 (relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses).

(b) Licensed by another United States jurisdiction.

(1) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, and has no disciplinary history, the academic (including the internship) and experience requirements shall be considered met.

(2) If an applicant has been licensed as an LMFT in another United States jurisdiction for less than two years immediately preceding the date the application is received, and has no disciplinary history, staff may grant one month of credit for every two months of independent marriage and family therapy practice toward any deficit in the academic internship or experience requirements.

(c) Upon request, an applicant must provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) For an application for a license submitted by a verified military service member or military veteran, the applicant will receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has a disqualifying criminal history as described by the Act, the Council Act, or council rules.

801.206. Licensing of Persons with Criminal Convictions.

(a) The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

(1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;

(2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;

(3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;

(4) any criminal violation of Chapter 502 (Licensed Marriage and Family Therapist Act) of the Occupations Code;

(5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;

(6) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);

(7) any offense involving the failure to report abuse or neglect;

(8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of marriage and family therapy;

(9) any criminal violation of Section 22.041 (abandoning or endangering a child) of the Penal Code;

(10) any criminal violation of Section 21.15 (invasive visual recording) of the Penal Code;

(11) any criminal violation of Section 43.26 (possession of child pornography) of the Penal Code;

(12) any criminal violation of Section 22.04 (injury to a child, elderly individual, or disabled individual) of the Penal Code;

(13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction that will have an effect on the licensee's ability to provide competent services; and

(14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

§801.305 Schedule of Sanctions

The following standard sanctions shall apply to violations of Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Figure 22 TAC §801.305

Rule	**Action**
801.43(b) Report alleged violations or misrepresentation	Level 5 Reprimand ~~Warning Letter~~
801.43(c) Identify license, status, or other restriction	Level 5 Reprimand ~~Warning Letter~~
801.43(d) Make false statement	Level 5 Reprimand
801.43(g) Make reasonable effort to prevent other's false statement	Level 5 Reprimand ~~Warning Letter~~
801.44(a) Provide services only in the context of a professional relationship	Level 5 Reprimand
801.44(b) Fail to provide written information	Level 5 Reprimand
801.44(c) Fail to obtain appropriate consent or custody order	Level 5 Reprimand
801.44(d) Fail to provide written information regarding confidentiality	Level 5 Reprimand
801.44(e) Refer for pay	Level 3 Suspension ~~Administrative Penalty~~
801.44(f) Exploit trust	Level 4 Probated Suspension
801.44(g) Act to meet personal needs	Level 4 Probated Suspension
801.44(h) Provide services to family, friends, educational or business associates, or others	Level 5 Reprimand
801.44(i) Maintain professional boundaries with clients and former clients	Level 5 Reprimand
801.44(k) Protect individual from harm resulting from group interaction	Level 5 Reprimand ~~Warning Letter~~
801.44(l) Avoid non-therapeutic relationship with clients and former clients	Level 5 Reprimand ~~Conditional Letter of Agreement~~
801.44(m) Bill only for services actually rendered or as agreed in writing	Level 5 Reprimand
801.44(n) End professional relationship when client is not benefitting	Level 4 Probated Suspension
801.44(n) Provide written referral and facilitate transfer to appropriate care	Level 5 Reprimand ~~Conditional Letter of Agreement~~
801.44(o) Technology-assisted services, provide license number and council's contact information	Level 5 Reprimand ~~Warning Letter~~

801.44(p) Provided services within competency and professional standards	Level 4 Probated Suspension
801.44(q) Base services on client assessment, evaluation, or diagnosis	Level 4 Probated Suspension
801.44(s) Promote or encourage illegal use of alcohol or drugs	Level 1 Revocation
801.44(t) Provide services to client served by another	Level 5 Reprimand
801.44(u) Aid or abet or fail to report unlicensed practice	Level 2/3 Suspension
801.44(v) Enter a non-professional relationship with a client's family member or any person who has a personal or professional relationship with a client	Level 5 Reprimand
801.44(w) Provide services while impaired	Level 2/3 Suspension
801.45(b) Sexual contact with a protected person	Level 1 Revocation
801.45(c) Provide services to a former sexual partner	Level 1 Revocation
801.45(d) Therapeutic deception or sexual exploitation	Level 1 Revocation
801.46(a) Inform clients about testing as part of treatment	Level 5 Reprimand ~~Warning Letter~~
801.46(c) Administer and interpret test with appropriate training, experience	Level 4 Probated Suspension
801.47 Use alcohol or drugs, adversely affecting provision of services	Level 2/3 Suspension
801.48(b) Disclose communication, record, or identity of a client	Level 4 Probated Suspension
801.48(c) Comply with statutes or rules, concerning confidential information	Level 4 Probated Suspension
801.48(d) Report or release information as required by statute	Level 4 Probated Suspension
801.48(d)(4) Report sexual misconduct per TCPRC 81.006	Level 5 Reprimand
801.48(e) Keep accurate records	Level 5 Reprimand ~~Conditional Letter of Agreement~~
801.48(g) Maintain confidentiality in how client records are stored or disposed	Level 4 Probated Suspension
801.48(h) Plan for custody of records	Level 5 Reprimand
801.50 Appropriate use of assumed name	Level 5 Reprimand ~~Warning Letter~~
801.53(a) Advertise with false information	Level 5 Reprimand
801.53(d) Advertisement must state license title	Level 5 Reprimand ~~Warning Letter~~
801.53(e) Ad with confusing membership or certification outside field of therapy	Level 5 Reprimand ~~Warning Letter~~
801.53(f) Advertisement must state provisional license	Level 5 Reprimand ~~Warning Letter~~

801.53(g) Reasonable steps to correct or minimize misuse of license certificate or misrepresentation of licensee's services	Level 5 Reprimand ~~Warning Letter~~
801.55(e) Dual relationship: Provide MFT and parenting coordination services	Level 4 Probated Suspension
801.56(d) Dual relationship: Provide MFT and parenting facilitation services	Level 4 Probated Suspension
801.57(d) Dual relationship: Provide any service and custody evaluation	Level 4 Probated Suspension
801.57(e) Offer expert opinion related to child custody	Level 2/3 Suspension
801.57(f) Failure to inform client and proper informed consent	Level 5 Reprimand
801.57(g) Associate must not conduct child custody or adoption evaluations	Level 4 Probated Suspension
801.58(d) Required training for technology-assisted services	Level 5 Reprimand
801.58(h) Failure to inform client and proper informed consent	Level 5 Reprimand
801.58(i) Meet legal requirements of health information privacy and security	Level 4 Probated Suspension
801.143(b) Supervisor may not be employed by supervisee	Level 5 Reprimand
801.143(c) Supervisor may not be related to supervisee	Level 5 Reprimand
801.143(d) Supervisor must timely process and maintain Associate's file	Level 5 Reprimand ~~Conditional Letter of Agreement~~
801.143(e) Supervisor must submit timely written notice when supervision ends	Level 5 Reprimand ~~Warning Letter~~
801.143(f)(1) Supervisor must ensure Associate adheres to all laws and rules	Level 5 Reprimand ~~Warning Letter~~
801.143(f)(2) Supervisor/Associate dual relationship	Level 5 Reprimand
801.143(f)(4) Supervisor must implement Associate's written remediation plan	Level 5 Reprimand
801.143(f)(5) Supervisor must timely submit accurate experience documents	Level 5 Reprimand
801.143(i) Supervisor fails to renew and continues to represent as a supervisor	Level 5 Reprimand
801.143(j) Supervisor with status other than "current, active" or after supervisor status is removed and continues to supervise	Level 4 Probated Suspension
801.143(k) Disciplined supervisor must inform all Associates of council action, refund fees, and assist Associates to find alternate supervision	Level 5 Reprimand
801.143(l) Supervise without being currently approved supervisor	Level 4 Probated Suspension

The Texas Behavioral Health Executive Council proposes new rules §463.1-463.3, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.1. Regionally Accredited Educational Institutions. Degrees required for licensure under Occupations Code, Chapter 501 must have been awarded or conferred by an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

463.2. Reciprocity Agreements with Other Jurisdictions.

(a) The Council may enter into reciprocal licensing agreements with other jurisdictions pursuant to §501.262 of the Psychologists' Licensing Act. In determining whether the requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the Psychologists' Licensing Act, for the granting of licensure by reciprocity, the Council will consider the following:

(1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;

(2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;

(3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and

(4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.

463.3. Use of Other Mental Health License During Supervised Experience.

(a) An individual who holds a mental health license, other than one issued under Chapter 501, may not obtain the required practicum, internship, or supervised experience required for a license under Chapter 501 while practicing under that license.

(b) An individual subject to subsection (a) of this section must comply with the Psychologists' Licensing Act and all applicable Council rules regarding the use of appropriate titles.

The Texas Behavioral Health Executive Council proposes new rules §463.8-463.14, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.8. Licensed Psychological Associate.

(a) Licensure Requirements. An applicant for licensure as a psychological associate must:

(1) hold a graduate degree in psychology from a regionally accredited institution of higher education;

(2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;

(3) pass all examinations required by the Council and meet each of the criteria listed in §501.255(a)(2)-(9) of the Occupations Code; and

(4) demonstrate graduate level coursework in each of the following areas:

(A) Psychological Foundations:

(i) the biological bases of behavior;

(ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;

(iii) the social, cultural, and systemic bases of behavior;

(iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;

(B) Research and Statistics:

(i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;

(ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;

(C) Applied Psychology:

(i) the history, theory, and application of psychological principles;

(ii) the application of psychological theories to individuals, families, and groups;

(D) Assessment:

(i) intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;

(ii) socio-economic, including behavioral, adaptive, and cultural assessment;

(E) Interventions:

(i) the application of therapeutic techniques;

(ii) behavior management;

(iii) consultation; and

(F) Scientific and Professional, Legal, and Ethical Issues.

(b) Degree Requirements.

(1) For purposes of this rule:

(A) a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"

(B) a specialist degree shall be treated as a graduate degree; and

(C) one semester credit hour equals one and one-half quarter credit hours.

(2) A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.

(3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the Council

with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

(1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.

(2) Notwithstanding paragraph (1) of this subsection and subject to the limitations set out in paragraph (3) of this subsection, a licensed psychological associate may practice independently if:

(A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;

(B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and

(C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.

(3) A licensed psychological associate meeting the requirements of paragraph (2) of this subsection shall be approved for independent practice, but remains subject to all Council rules, including Council §465.9 relating to competency.

(4) Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.

(5) Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.

(d) Notwithstanding subsection (c)(3) of this section, an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Council rule §463.11 shall govern any request for a waiver under this rule.

(e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."

(f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Council describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Council's website.

(g) Continuation of Prior Law.

(1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.

(2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has

completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.

463.9. Licensed Specialist in School Psychology.

(a) License Requirements. An applicant for licensure as a specialist in school psychology must:

(1) hold an appropriate graduate degree;

(2) provide proof of specific graduate level coursework

(3) provide proof of an acceptable internship;

(4) provide proof of passage of all examinations required by the Council; and

(5) meet the requirements imposed under §501.2525(a)(3) - (9) of the Occupations Code.

(b) Applicants who hold active certification as a Nationally Certified School Psychologist (NCSP) are considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must provide the Council with their NCSP certification number.

(c) Applicants who graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association are considered to have met all training and internship requirements for licensure under this rule. Applicants relying upon this subsection must submit an official transcript indicating the degree and date the degree was awarded or conferred.

(d) Applicants who do not hold active NCSP certification, or who did not graduate from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited institution of higher education. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited institution of higher education. A maximum of 12 internship hours may be counted toward this requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology.

(e) Applicants applying under subsection (d) of this section must submit evidence of graduate level coursework as follows:

(A) Psychological Foundations, including:

(i) biological bases of behavior;

(ii) human learning;

(iii) social bases of behavior;

(iv) multi-cultural bases of behavior;

(v) child or adolescent development;

(vi) psychopathology or exceptionalities;

(B) Research and Statistics;

(C) Educational Foundations, including any of the following:

(i) instructional design;

(ii) organization and operation of schools;

(iii) classroom management; or

(iv) educational administration;
(D) Assessment, including:
(i) psychoeducational assessment;
(ii) socio-emotional, including behavioral and cultural, assessment;
(E) Interventions, including:
(i) counseling;
(ii) behavior management;
(iii) consultation;
(F) Professional, Legal and Ethical Issues; and
(G) A Practicum.
(f) Applicants applying under subsection (d) must have completed an internship with a minimum of 1200 hours and that meets the following criteria:
(1) At least 600 of the internship hours must have been completed in a public school.
(2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Council rule §463.11(d)(1) and (d)(2)(C) of this section.
(3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.
(4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.
(5) Unless authorized by the Council, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
(6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.
(7) Internship hours must be obtained in not less than one or more than two academic years.
(8) An individual completing an internship under this rule must be designated as an intern.
(9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.
(10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.
(g) Trainee Status.
(1) An applicant for the specialist in school psychology license who has not yet passed the Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.
(2) A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Jurisprudence Examination.
(3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.
(4) A trainee's status may be suspended or revoked upon a showing of a violation of the Council's rules or any law pertaining to the practice of psychology, and the individual may be

made the subject of an eligibility proceeding. The one-year period for trainee status shall not be tolled by any suspension of the trainee status.

(5) Following official notification from the Council upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.

(6) An individual practicing under trainee status must be designated as a trainee.

(h) Provision of psychological services in the public schools by unlicensed individuals.

(1) An unlicensed individual may provide psychological services under supervision in the public schools if:

(A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;

(B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Council that has not been denied or returned; or

(C) the individual has been issued a trainee status letter.

(2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under §501.004 of the Psychologists' Licensing Act.

(3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Council.

(4) The authority to practice referenced in paragraph (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Council will not issue more than one trainee status letter to an individual, regardless of the number of applications filed.

463.10. Licensed Psychologists.

(a) Licensure Requirements. An applicant for licensure as a psychologist must:

(1) hold a doctoral degree in psychology from a college or university accredited by a regional accrediting organization;

(2) pass all examinations required by the agency;

(3) submit documentation of supervised experience from a licensed psychologist which satisfies the requirements of Council rule 463.11; and

(4) meet all other requirements of §501.2525 of the Occupations Code.

(b) Degree Requirements.

(1) For those applicants with a doctoral degree conferred on or after January 1, 1979, the transcript must state that the applicant has a doctoral degree that designates a major in psychology.

(2) For those applicants with a doctoral degree conferred prior to January 1, 1979, the transcript must reflect a doctoral degree that designates a major in psychology or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training. A doctoral degree will be considered the substantial equivalent to a doctoral degree in psychology if the training program meets the following criteria:

(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.
(B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.
(C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.
(D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.
(E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.
(F) The program must have an identifiable body of students who matriculated in the program.
(G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.
(H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.
(I) The following curricular requirements must be met and demonstrated through appropriate course work:
(i) Scientific and professional ethics related to the field of psychology.
(ii) Research design and methodology, statistics.
(iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Council evidence of competency in each of the four core areas.
(I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.
(II) Cognitive-affective basis of behavior: learning, thinking, motivation, emotion.
(III) Social basis of behavior:

social psychology, group processes, organizational and system theory.
(IV) Individual differences: personality theory, human development, abnormal psychology.
(J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.
(3) Any person intending to apply for licensure under the substantial equivalence clause must file with the Council an affidavit showing:
(A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;
(B) Information regarding each of the instructors in the courses submitted as substantially equivalent;
(C) Appropriate, published information from the university awarding the degree, demonstrating that in requirements noted in paragraph (2) of this subsection have been met.
(c) An applicant who holds an active Certificate of Professional Qualification in Psychology (CPQ) is considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their certification be sent directly to the Council from the Association of State and Provincial Psychology Boards (ASPPB), be submitted to the Council in the sealed envelope in which it was received by the applicant from ASPPB, or be submitted to the Council as directed by agency staff.
(d) An applicant who holds an active specialist certification with the American Board of Professional Psychology (ABPP) is considered to have met all requirements for licensure under this rule except for passage of the EPPP and Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their specialist certification be sent directly to the Council from ABPP, be submitted to the Council in the sealed envelope in which it was received by the applicant from ABPP, or be submitted to the Council as directed by agency staff.
(e) The requirement for documentation of supervised experience under this rule is waived for an applicant who is actively licensed as a doctoral-level psychologist in good standing and has been practicing psychology in another jurisdiction for at least five years or can affirm that the applicant has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred. Applicants relying upon this subsection must request that verification of their out-of-state licensure be sent directly to the Council from the other jurisdiction, be submitted to the Council in the sealed envelope in which it was received by the applicant from the other jurisdiction, or be submitted to the Council as directed by agency staff.
(f) Provisional License.
(1) An applicant who has not yet passed the required examinations or is seeking to acquire the supervised experience required under Council rule 463.11 may practice under the supervision of a licensed psychologist as a provisionally licensed psychologist for not more than two years if the applicant meets all other licensing requirements.
(2) A provisional license will be issued to an applicant upon proof of provisional license eligibility. However, a provisional license will not be issued to an applicant who was issued a provisional license in connection with a prior application.

(3) A provisionally licensed psychologist is subject to all applicable laws governing the practice of psychology.
(4) A provisionally licensed psychologist may be made the subject of an eligibility or disciplinary proceeding. The two-year period for provisional licensure shall not be tolled by any suspension of the provisional license.
(5) A provisional license will expire after two years if the person does not qualify for licensure as a psychologist.

463.11. Supervised Experience Required for Licensure as a Psychologist.
(a) Required Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program and at least 1,750 of which must have been received as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).
(1) A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant whose doctoral degree was conferred prior to September 1, 2017.
(2) The formal internship must be documented by the Director of Internship Training. Alternatively, if the Director of Internship Training is unavailable, the formal internship may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program.
(3) Following conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting, while licensed or authorized to practice in another jurisdiction, or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained without a provisional license or trainee status prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this rule if the experience was obtained under the supervision of a licensed psychologist.
(b) Satisfaction of Post-doctoral Supervised Experience with Doctoral Program Hours.
(1) Applicants who received their doctoral degree from a degree program accredited by the American Psychological Association (APA), the Canadian Psychological Association (CPA), or a substantially equivalent degree program, may count the following hours of supervised experience completed as part of their degree program toward the required post-doctoral supervised experience:
(A) hours in excess of 1,750 completed as part of the applicant’s formal internship; and
(B) practicum hours certified by the doctoral program training director (or the director’s designee) as meeting the following criteria:
(i) the practicum training is overseen by the graduate training program and is an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and ultimately licensure;
(ii) the practicum training is governed by a written training plan between the student, the practicum training site, and the graduate training program. The training plan must describe how

the trainee's time is allotted and assure the quality, breadth, and depth of the training experience through specification of the goals and objectives of the practicum, the methods of evaluation of the trainee's performance, and reference to jurisdictional regulations governing the supervisory experience. The plan must also include the nature of supervision, the identities of the supervisors, and the form and frequency of feedback from the agency supervisor to the training faculty. A copy of the plan must be provided to the Council upon request;

(iii) the supervising psychologist must be a member of the staff at the site where the practicum experience takes place;

(iv) at least 50% of the practicum hours must be in service-related activities, defined as treatment or intervention, assessment, interviews, report-writing, case presentations, and consultations.

(v) individual face-to-face supervision shall consist of no less than 25% of the time spent in service-related activities;

(vi) at least 25% of the practicum hours must be devoted to face-to-face patient or client contact;

(vii) no more than 25% of the time spent in supervision may be provided by a licensed allied mental health professional or a psychology intern or post-doctoral fellow; and

(viii) the practicum must consist of a minimum of 15 hours of experience per week.

(2) Applicants applying for licensure under the substantial equivalence clause must submit an affidavit or unsworn declaration from the program's training director or other designated leader familiar with the degree program, demonstrating the substantial equivalence of the applicant's degree program to an APA or CPA accredited program at the time of the conferral of applicant's degree.

(3) An applicant and the affiant or declarant shall appear before the agency in person to answer any questions, produce supporting documentation, or address any concerns raised by the application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of substantial equivalency under this rule.

(c) General Requirements for Supervised Experience. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:

(1) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.

(2) Gaps Related to Supervised Experience.

(A) Unless a waiver is granted by the Council, an application for a psychologist's license will be denied if a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date of the application.

(B) The Council shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:

(i) proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act, during any gap period;

(ii) proof of professional development, which at a minimum meets the Council's professional development requirements, during any gap period;

(iii) proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or

(iv) proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.

(3) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.

(4) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.

(5) All supervised experience must be received from a psychologist licensed at the time supervision is received.

(6) The supervising psychologist must be trained in the area of supervision provided to the supervisee.

(7) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.

(8) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Council rules.

(9) Unless authorized by the Council, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(10) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use that title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use that title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Council rule.

(d) Formal Internship Requirements. The formal internship hours must be satisfied by one of the following types of formal internships:

(1) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(2) The successful completion of an organized internship meeting all of the following criteria:

(A) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.

(B) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.

(C) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.
(D) Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.
(E) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.
(F) At least 25% of trainee's time must be in direct patient/client contact.
(G) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.
(H) Training must be post-clerkship, post-practicum and post-externship level.
(I) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.
(J) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or
(3) The successful completion of an organized internship program in a school district meeting the following criteria:
(A) The internship experience must be provided at or near the end of the formal training period.
(B) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.
(C) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.
(D) The internship experience must occur in a setting appropriate to the specific training objectives of the program.
(E) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.
(F) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
(G) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
(H) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.
(I) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.

(J) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
(K) The internship experience must be conducted in a manner consistent with the current legal-ethical standards of the profession.
(L) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.
(M) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.
(e) Industrial/Organizational Requirements. Individuals from an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have taken place after conferral of the doctoral degree and in accordance with subsection (a) of this rule. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Council rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.
(f) Licensure Following Respecialization.
(1) In order to qualify for licensure after undergoing respecialization, an applicant must demonstrate the following:
(A) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing respecialization;
(B) completion of a formal post-doctoral respecialization program in psychology which included at least 1,750 hours in a formal internship;
(C) completion of respecialization within the two year period preceding the date of application for licensure under this rule; and
(D) upon completion of the respecialization program, at least 1,750 hours of supervised experience obtained as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).
(2) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.
(3) The rules governing the waiver of gaps related to supervised experience shall also govern any request for waiver of a gap following respecialization.

463.12. Temporary License.
(a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose. To be eligible for temporary licensure, an applicant must:
(1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;
(2) pay the application fee;
(3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;

(4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;
(5) be supervised (sponsorship) by a psychologist licensed in this state; and
(6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.
(b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Council. An applicant need not demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Council has reciprocity.
(c) Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Council as compliance with and in lieu of subsection (a)(3) and (6) of this section.
(d) For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.
(e) Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.
(f) A temporary licensee must submit written notification to the Council of the dates licensee intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Council.
(g) Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Council rules.
(h) An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Council.
(i) A temporary license holder may not receive another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.

463.13. Licensure by Reciprocity. An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:
(1) Submit an application in the form prescribed by the Council and corresponding fee;
(2) Submit verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity;

(3) Pass the jurisprudence examination; and
(4) Submit any other documentation or information requested in the application or which the Council may deem necessary in order to ensure the public's safety when processing the application.

463.14. Remedy for Incomplete License Requirements
(a) An applicant who does not meet all of the prerequisites for a particular license under Chapter 501, may petition the Council for a waiver or modification of the prerequisite(s). An applicant may not petition for the waiver or modification of the degree required for the particular license sought or passage of the requisite examinations.
(b) The Council may waive or modify a prerequisite for obtaining a license under Chapter 501, subject to subsection (a) of this section, if:
(1) the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and
(2) the failure or inability to meet the prerequisite was due to a disaster declared under Chapter 418 of the Government Code or under similar authority in another jurisdiction.
(c) The Council may approve or deny a petition under this rule, and in the case of approval, may condition the approval on reasonable terms and conditions designed to ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought.

The Texas Behavioral Health Executive Council proposes new rule §463.20, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.20. Special Provisions Applying to Military Service Members, Veterans, and Spouses.

(a) Substantial Equivalency Determination. In accordance with §55.004 of the Occupations Code, the licensing requirements for a license to practice psychology in another jurisdiction will be considered substantially equivalent to Texas' requirements if the other jurisdiction's requirements meet or exceed the following criteria:

(1) Licensed Specialist in School Psychology.

(A) The completion of a training program in school psychology that has been approved or accredited by the American Psychological Association or the National Association of School Psychologists, or completion of a master's degree in psychology with specific course work similar to the coursework required in the Council's rules; and

(B) Passage of the School Psychology Examination.

(2) Licensed Psychological Associate.

(A) A graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;

(B) Passage of the EPPP at the Texas cut-off score; and

(C) A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.

(3) Licensed Psychologist.

(A) A doctoral degree in psychology;

(B) Passage of the EPPP at the Texas cut-off score; and

(C) A minimum of two years or 3,000 hours of supervised experience under a licensed psychologist.

(b) In accordance with §55.007 of the Occupations Code, an applicant who is a military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:

(1) Licensed Specialist in School Psychology. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: a practicum and 600 internship hours.

(2) Licensed Psychological Associate. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: 6 semester credit hours of supervised experience.

(3) Licensed Psychologist. A military service member or military veteran who has delivered psychological services within the military for at least one year, following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or 1,750 hours of supervised experience.

(c) A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another jurisdiction that has been restricted, or they have an unacceptable criminal history.

The Texas Behavioral Health Executive Council proposes new rule §463.25, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.25. Health Service Psychologist Specialty Certification.

(a) Health Service Psychologist (HSP) is a specialty certification from the Council available to Texas licensed psychologists who are listed in the National Register of Health Service Psychologists.

(b) The Council will issue the HSP specialty certification to actively licensed psychologists upon receipt of proof from the National Register that the licensee currently holds the HSP credential from the National Register.

(c) The HSP specialty certification by the Council must be renewed in connection with the person's license. Renewal of the HSP specialty certification requires payment of the renewal fee established by the Council.

The Texas Behavioral Health Executive Council proposes new rules §463.30-463.31, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.30. Examinations Required for Licensure.

(a) Jurisprudence Examination. All applicants for licensure are required to pass the Jurisprudence Examination prior to the Council granting a license.

(b) School Psychology Examination. Applicants for licensure as a specialist in school psychology must take the School Psychology Examination administered by the Educational Testing Service before applying for licensure as a specialist in school psychology.

(c) Examination for Professional Practice in Psychology (EPPP). All applicants for licensure as a psychological associate or psychologist are required to pass the EPPP prior to the Council granting a license. An applicant who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided the applicant's score satisfies the Council's current minimum acceptable score for licensure.

463.31. Minimum Passing Scores for Examinations.

(a) Cutoff Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test.

(b) Cutoff Scores for the School Psychology Examination. The minimum acceptable score for the School Psychology Examination is the same as the current cut-off score for the Nationally Certified School Psychologist credential.

(c) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is ninety percent (90%).

The Texas Behavioral Health Executive Council proposes new rule §463.35, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.35. Professional Development.

(a) Persons licensed under Chapter 501 are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period they hold a license. At least 6 of these hours must be in ethics, the Council's rules, or professional responsibility, and another 6 or more hours must be in cultural diversity. Acceptable cultural diversity hours include, but are not limited to professional development regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status.

(b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Council will make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Council may require a licensee to produce course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. A person may not claim professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.

(c) At least half of the professional development hours required by this rule must be obtained from or endorsed by a provider listed in subsection (f)(1) of this section.

(d) The Council will not pre-approve professional development credit.

(e) Approved Professional Development Activities. The Council will accept professional development hours obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit in more than one renewal period:

(1) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;

(2) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;

(3) presentation of a program or workshop; and

(4) authoring or editing publications.

(f) Approved Professional Development Providers. The Council will accept professional development hours from the following providers:

(1) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; and

(2) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.

(g) Credit for professional development will be provided as follows:

(1) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.

(2) For teaching or attendance of a graduate level psychology course, 4 hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.

(3) For presentations of workshops or programs, 3 hours for each hour actually presented, for a maximum of 6 hours per year.
(4) For publications, 8 hours for authoring or co-authoring a book; 6 hours for editing a book; 4 hours for authoring a published article or book chapter. A maximum credit of 8 hours for publication is permitted for any one year.
(h) Professional development hours must have been obtained during the renewal period for which they are submitted and may not be utilized to fulfill the requirements for more than one renewal period. However, if the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements.
(i) The Council will accept as documentation of professional development:
(1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;
(2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;
(3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;
(4) for presenters of professional development workshops or programs, copies of the official program announcement naming the licensee as a presenter and an outline or syllabus of the contents of the program or workshop;
(5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;
(6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.
(j) It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Council. Licensees shall maintain documentation of all professional development hours for 5 years following the renewal period in which those hours were utilized.

The Texas Behavioral Health Executive Council proposes new rule §463.40, relating to Applications and Licensing.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

463.40. Ineligibility Due to Criminal History. Those crimes which TSBEP considers directly related to the duties and responsibilities of a licensee are:

(1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;

(2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;

(3) any criminal violation of the Psychologists' Licensing Act;

(4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;

(5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;

(6) any criminal violation of §32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), §32.45 (Misapplication of Fiduciary Property), §32.46 (Securing Execution of Document by Deception), §32.50 (Deceptive Preparation and Marketing of Academic Product), §32.51 (Fraudulent Use or Possession of Identifying Information), §32.52 (Fraudulent, Substandard, or Fictitious Degree), or §32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;

(7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;

(8) any offense involving the failure to report abuse;

(9) any criminal violation of §38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;

(10) any criminal violation involving a federal health care program, including 42 USC §1320a-7b (Criminal penalties for acts involving Federal health care programs);

(11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and

(12) any attempt, solicitation, or conspiracy to commit an offense listed herein.

The Texas Behavioral Health Executive Council proposes new rules §§465.1-465.38, relating to Rules of Practice.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to the scope of practice, standards of care, and ethical practice for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>
465.1. Definitions. The following terms have the following meanings:

(1) "Adoption evaluation" has the same meaning as assigned by §107.151 of the Family Code.
(2) "Child custody evaluation" has the same meaning as assigned by §107.101 of the Family Code.
(3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.
(4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.
(5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.
(6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, oral or written reports, live or recorded testimony, or any psychological service provided by a licensee concerning a current or potential legal case at the request of a party or potential party, an attorney for a party, or a court, or any other individual or entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).
(7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.
(8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants, and any other individual subject to the regulatory authority of the Council.
(9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.
(10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.
(11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of

the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.
(12) "Professional standards" are determined by the Council through its rules.
(13) "Provision of psychological services" means any use by a licensee of education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, or performing research, or teaching to an individual, group, or organization.
(14) "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.
(15) "Recognized member of the clergy," as used in §501.004(a)(4) of the Occupations Code, means a member in good standing of and accountable to a denomination, church, sect or religious organization recognized under the Internal Revenue Code, §501(c)(3).
(16) "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.
(17) "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.
(18) "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.
(19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.
(20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

465.2. Supervision.
(a) Supervision in General. The following rules apply to all supervisory relationships.
(1) A licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.
(2) Licensees ensure that their supervisees have legal authority to provide psychological services.
(3) Licensees delegate only those responsibilities that supervisees may legally and competently perform.

(4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.
(5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:
(A) Supervised by (name of supervising licensee);
(B) Under the supervision of (name of supervising licensee);
(C) The following persons are under the supervision of (name of supervising licensee); or
(D) Supervisee of (name of supervising licensee).
(6) Licensees provide an adequate level of supervision to all individuals under their supervision according to accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.
(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include synchronous remote or electronic means.
(8) Licensees must be competent to perform any psychological services being provided under their supervision.
(9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.
(10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.
(b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.
(1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.
(2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.
(3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.
(4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.
(5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure under Chapter 501, to supervise others in the delivery of psychological services.
(6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

(c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.
(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice unless the provisional licensee is licensed in another state to independently practice psychology and is in good standing in that state.
(2) A Provisionally Licensed Psychologist may, as part of a period of supervised experience required for licensure as a psychologist, supervise others in the delivery of psychological services.
(3) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a proportional basis for supervisees working less than full-time.
(d) Supervision of Licensed Specialists in School Psychology interns and trainees. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and trainees working toward licensure as a specialist in school psychology.
(1) A supervisor must provide an LSSP trainee with at least one hour of supervision per week, with no more than half being group supervision. A supervisor may reduce the amount of weekly supervision on a proportional basis for trainees working less than full-time.
(2) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology who has a minimum of 3 years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.
(3) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.
(4) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:
(A) any contracts or service agreements between the public school district and university school psychology training program;
(B) any contracts or service agreements between the public school district and the supervisee;
(C) the supervisee's professional liability insurance coverage, if any;
(D) any training logs required by the school psychology training program; and
(E) the supervisee's trainee or licensure status.
(5) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours

to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

(6) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.

(e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

465.4. Employment of Unlicensed Individuals.

(a) Individuals Licensed in Another Profession. Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a person licensed under Chapter 501 may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.

(b) Unlicensed Individuals. Psychologists may employ unlicensed individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:

(1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;

(2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and

(3) Technical, educational, or other duties that are adjunctive to and incorporated into the provision of psychological services such as providing educational information or assisting a client's work with a computer, special equipment or special materials, provided that the duties do not require psychological education or involve the provision of psychological services or the services or activities of another licensed profession.

465.5. Multiple Licensure. Multiple licenses regulated by the Council are treated as one for purposes of discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all psychology licenses held by a licensee.

465.6. Solicitation, Use of Titles, and Business Names.

(a) Solicitation of Testimonials and/or Patients.

(1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.

(2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.
(b) Use of Titles.
(1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.
(2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.
(3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:
(A) the individual holds a doctorate in the area of specialization;
(B) the individual has undergone retraining under the American Psychological Association retraining guidelines in effect at the time of specialization;
(C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;
(D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and relevant applied experience, as well as proof that the title has been used for at least five years; or
(E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.
(c) Assumed Names and Legal Entities. Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.

465.8. Psychological Services Are Provided within a Defined Relationship.
Licensees provide psychological services only in the context of a defined professional relationship.

465.9. Competency.
(a) Licensees provide only services for which they have the education, skills, and training to perform competently.
(b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.
(c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.
(d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.

(e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.
(f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.
(g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.
(h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to an appropriate service provider.
(i) Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services until the emergency has abated or to the extent necessary to ensure that services are not denied. If ongoing services are provided, licensees must comply with subsection (d) of this section, as soon as practicable or refer the patient to an appropriate service provider.
(j) Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with §465.21 of this title (relating to Termination of Services).

465.10. Basis for Scientific and Professional Judgments. Licensees rely on scientifically and professionally derived knowledge when making professional judgments.

465.11. Informed Consent.
(a) Except in an inpatient setting where a general consent has been signed, licensees must obtain and document in writing informed consent concerning all services they intend to provide to the patient, client or other recipient(s) of the psychological services prior to initiating the services, using language that is reasonably understandable to the recipients unless consent is precluded by applicable federal or state law.
(b) Licensees provide appropriate information as needed during the course of the services about changes in the nature of the services to the patient client or other recipient(s) of the services using language that is reasonably understandable to the recipient to ensure informed consent.
(c) Licensees provide appropriate information as needed, during the course of the services to the patient client and other recipient(s) and afterward if requested, to explain the results and conclusions reached concerning the services using language that is reasonably understandable to the recipient(s).
(d) When a licensee agrees to provide services to a person, group or organization at the request of a third party, the licensee clarifies to all of the parties the nature of the relationship between the licensee and each party at the outset of the service and at any time during the services that the circumstances change. This clarification includes the role of the licensee with

each party, the probable uses of the services and the results of the services, and all potential limits to the confidentiality between the recipient(s) of the services and the licensee.

(e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality, expectations of each participant, and the access of each participant to records generated in the course of the services.

(f) At any time that a licensee knows or should know that the licensee may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Council rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in rule §465.9(j) of this title (relating to Competency) that will prevent them from performing their work-related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and referral to insure that the services are completed in a timely manner.

(g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.

(h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that the licensee intends to provide to the patient, client, or other recipient(s) of the psychological services prior to initiating the services using language that is reasonably understandable to the recipient(s).

465.12. Privacy and Confidentiality.

(a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.

(b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process.

(c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.

(d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient or client confidentiality.

(e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.

(f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity or records, must remove all identifying and confidential information relating to the second individual before releasing the records.

(g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licenses shall exclude information that could lead to the identification of the patient or client.

(h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.
(i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

465.13. Personal Problems, Conflicts and Dual Relationships
(a) In General.
(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.
(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.
(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.
(4) Licensees refrain from entering into or withdraw from any professional relationship that conflicts with their ability to comply with all Council rules applicable to other existing professional relationships.
(b) Dual Relationships.
(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.
(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.
(3) A licensee who is considering or involved in a professional or non- professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.
(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.
(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.

465.14. Misuse of Licensee Services.
(a) Licensees decline to offer services when limitations or conditions are placed on their work by the patient, client, or third parties which could foreseeably cause the licensee to violate a Council rule.
(b) If licensees become aware of misuse or misrepresentation of their services or the results of their services, they take reasonable steps to correct or minimize the misuse or misrepresentation.

465.15. Fees and Financial Arrangements.

(a) General Requirements.

(1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.

(2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.

(3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.

(4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.

(b) Ethical and Legal Requirements.

(1) Licensees do not engage in fraudulent billing.

(2) Licensees do not misrepresent their fees.

(3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.

(4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.

(5) A licensee does not participate in bartering if it is clinically contra- indicated or if bartering has the potential to create an exploitative or harmful dual relationship.

465.16. Evaluation, Assessment, Testing, and Reports.

(a) Scope and Purpose.

(1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.

(2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.

(b) Reliability and Validity.

(1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.

(2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.

(3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.

(4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.

(5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.

(c) Limitations.

(1) Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.
(2) Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.
(3) Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.
(4) Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.
(5) Licensees provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.
(6) Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.
(d) Test Security and Validity. Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test.
(e) Production of Reports.
(1) Licensees shall provide the patient, client, or subject of the evaluation with an estimate of the time needed to produce a report prior to conducting any evaluation, assessment, or testing.
(2) Licensees shall produce a report within a reasonable time period following completion of the evaluation, assessment, or testing needed to substantiate the report.
(3) Licensees shall notify a patient, client, or subject of the evaluation if a report cannot be produced within the original estimated time period and provide a new production date together with a reasonable explanation for why the report will be delayed.

465.17. Therapy and Counseling.
(a) Imbalances of Power.
(1) Licensees who engage in therapy or counseling recognize the actual or perceived power or undue influence they hold over current and former patients and clients.
(2) Licensees are presumed to have power and influence over former therapy or counseling patients or clients.
(3) Licensees do not engage in sexual relationships with, employ, enter into business with or otherwise exploit any former patient or client over whom they have actual or perceived power or undue influence created through a therapeutic relationship.
(b) Treatment plans.
(1) Licensees create specific written treatment plans that include, at a minimum, agreed upon goals of the treatment, the techniques to be used, and the tentative duration of the treatment for any therapy or counseling that they provide.
(2) Licensees explain the treatment plan to all recipients of the therapy or counseling before commencing the services.

(3) Licensees alter and document the alteration in the treatment plan when clinically indicated.
(4) Licensees confer with and obtain consent from the patient, client, or other recipient(s) of services concerning significant alterations in the treatment plan.

465.18. Forensic Services.
(a) In General.
(1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Council rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.
(2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.
(3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.
(4) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.
(5) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.
(b) Limitation on Services.
(1) A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and competency to render a professional opinion shall decline to render that opinion.
(2) A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.
(3) A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.
(4) A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.
(5) When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.
(c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:
(1) The nature of the anticipated services (procedures);
(2) The specific purpose and scope of the evaluation;

(3) The identity of the party who requested the psychologist's services;
(4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;
(5) The type of information sought and the uses for information gathered;
(6) The people or entities to whom psychological records will be distributed;
(7) The approximate length of time required to produce any reports or written results;
(8) Applicable limits on confidentiality and access to psychological records;
(9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and
(10) The licensee's name as it appears in their professional file with the Council prior to initiating services.
(d) Certain Testimony Prohibited.
(1) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.
(2) In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.
(3) This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.
(e) Child Custody Evaluations.
(1) The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.
(2) The term "supervision" as used in this subsection shall have the meaning assigned by §107.101 of the Family Code. However, the term shall not encompass the restrictions and requirements set forth in §465.2 of this title (relating to Supervision) nor shall a licensee providing supervision under this subsection have supervisory responsibility under that same rule.
(3) Minimum Qualifications of Child Custody Evaluator.
(A) A licensee must be qualified to conduct a child custody evaluation pursuant to §107.104 of the Family Code before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.
(B) Notwithstanding any other grounds for qualification, the Council has determined that a licensed psychologist is qualified to conduct child custody evaluations if the licensee:
(i) has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or
(ii) has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.
(C) A licensee who does not meet the minimum qualification requirements set forth in §107.104 of the Family Code, may nevertheless conduct a child custody evaluation if:
(i) appointed to do so pursuant to §107.106 of the Family Code. A licensee appointed under §107.106 must comply with the provisions of Subchapter D of the Family Code and this rule; or

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(D) If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

(E) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

(4) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in §107.107 of the Family Code.

(B) Following any disclosure required by §107.107(c), a licensee must resign as child custody evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.

(C) Except as authorized by §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(5) Elements of Child Custody Evaluation.

(A) Licensees shall comply with §§107.108, 107.109, and 107.1101 of the Family Code when conducting child custody evaluations.

(B) Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with §107.110 of the Family Code.

(6) Communications and Recordkeeping of Child Custody Evaluator.

(A) Licensees shall comply with the requirements of §107.112 of the Family Code regarding:

(i) the disclosure of communications between evaluation participants;

(ii) the creation and retention of records relevant to the evaluation; and

(iii) access to evaluation records.

(B) Licensees conducting child custody evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.111 of the Family Code, as well as any records obtained pursuant to §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.

(7) Evaluation Report.

(A) A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with §107.113 of the Family Code.

(B) A licensee shall provide a copy of any report filed with the Court in accordance with §107.114 of the Family Code.

(f) Adoption Evaluations.

(1) The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective.

Licensees conducting adoption evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.

(2) Minimum Qualifications of Adoption Evaluator.

(A) A licensee must be qualified to conduct an adoption evaluation pursuant to §107.154 of the Family Code before the licensee may conduct an evaluation.

(B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.

(C) A licensee who does not meet the minimum qualification requirements set forth in §107.154, may nevertheless conduct an adoption evaluation if:

(i) appointed to do so pursuant to §107.155 of the Family Code. A licensee appointed under §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(3) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in §107.156 of the Family Code.

(B) Following any disclosure required by §107.156(c), a licensee must resign as adoption evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator.

(C) Except as authorized by §107.156(e) of the Family Code, licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(4) A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.

(5) Licensees shall comply with §§107.158, 107.159, and 107.160 of the Family Code when conducting adoption evaluations.

(6) Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.163 of the Family Code. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by §107.163 of the Family Code will result in disciplinary action against a licensee.

(g) Duty to Report Complaints. Licensees must report any complaint filed against them that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Council. Only those complaints for which a licensee receives notice from the Council need to be reported.

(h) Parenting Facilitators.

(1) The title "parenting facilitator" is defined in §153.601 of the Family Code.

(2) The Council's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Council rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators.
(3) A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all applicable Council rules.
(4) Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.
(5) Parenting facilitators must comply with §§153.6061 and 153.6101 of the Family Code as to duties and qualifications, and with the "Guidelines for Parenting Coordination" published by the Association of Family and Conciliation Courts.
(6) The following psychologist-parenting facilitator practice standards are set forth consistent with §153.6101 of the Family Code:
(A) Parenting facilitators licensed by the Council shall comply with the standard of care applicable to the license to practice psychology in Texas.
(B) Psychologist-parenting facilitators meet all requirements of §153.6101 of the Family Code, including active licensure to practice as a psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

465.20. Research.
(a) Conducting Research.
(1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.
(2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.
(b) Research results.
(1) Psychologists do not fabricate data or falsify results in their publications.
(2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.
(3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.
(4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.

465.21. Termination of Services.

(a) Licensees do not abandon patients or clients.

(b) Withdrawal from a professional relationship in compliance with Council rules to avoid a prohibited dual relationship is not abandonment of a patient or client.

(c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.

(d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.

(e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.

(f) Termination of employment with agencies or organizations.

(1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.

(2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Council rules and applicable law.

(3) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.

(g) Termination of employment with public schools.

(1) A LSSP who is under contract as an employee of a public school to provide school psychological services must deliver to such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.

(2) A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.

465.22. Psychological Records, Test Data and Test Materials.

(a) General Requirements.

(1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.

(2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the

death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.

(3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.

(4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.

(5) Records shall be maintained and stored in a way that permits review and duplication.

(6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.

(7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.

(b) Maintenance and Control of Records.

(1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.

(2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.

(3) Licensees shall make all reasonable efforts to protect against the misuse of any record.

(4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.

(5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.

(6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.

(c) Access to Records.

(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.

(2) Records may be maintained in any media that ensure confidentiality and durability.

(3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.

(4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.

(5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.

(6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Council rule and state and federal law.

(7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Council rules and state and federal law.
(8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.
(9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:
(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or
(B) inform the patient in writing that the information does not exist or cannot be found; or
(C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.
(10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45 C.F.R. §164.501, maintained by the licensee concerning the patient.
(d) Retention of Records.
(1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.
(2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after the date of termination of services with the patient, client, or subject of evaluation, or five years after a patient or subject of evaluation reaches the age of majority, whichever is greater.
(3) All records shall be maintained in a manner which permits timely retrieval and production.
(e) Outdated Records.
(1) Licensees take reasonable steps when disclosing records to note information that is outdated.
(2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Council rules and state and federal laws.

465.32. Disposition and Assumption of the Practice of a Mental Health Professional.
(a) In General.
(1) A licensee has the right to sell or otherwise dispose of the licensee’s practice to another licensed psychologist.
(2) A licensee has the right to assume the practice of a licensee.
(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.
(b) Notice and Referral of Patients and Clients.

(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the buyer unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.
(2) A licensee who assumes the practice of another mental health service provider may state a willingness to provide services to all patients or clients the licensee is competent to treat.
(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.
(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional.

465.33. Improper Sexual Conduct.
(a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.
(b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:
(1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;
(2) Making inappropriate comments about an individual's body;
(3) Making sexually demeaning comments to an individual;
(4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;
(5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;
(6) Requesting a date;
(7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or
(8) Kissing of a sexual nature.
(c) A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:
(1) Sexual intercourse;
(2) Genital contact;
(3) Oral to genital contact;
(4) Genital to anal contact;
(5) Oral to anal contact;
(6) Touching breasts or genitals;

(7) Encouraging another to masturbate in one's presence;
(8) Masturbation in another's presence; or
(9) Exposure of sexual organs, breasts or buttocks.
(d) A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:
(1) The length of the relationship;
(2) The nature of the relationship; and
(3) The frequency and type of interaction between the persons involved in the relationship.
(e) A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former patients for at least two years after termination of services.
(f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.
(g) Licensees do not accept as patients individuals with whom they have engaged in sexual relationships.

465.34. Providing Mental Health Services to Those Served by Others. Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensees shall consult with the other service providers after appropriate consent has been obtained.

465.35. Duty to Report Rule Violations.
(a) A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council, may attempt to resolve the violation informally with the other licensee if the violation does not involve actual or likely harm to an individual or the public. Any unresolved violations must be reported to the Council.
(b) A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council involving actual or likely harm to an individual or the public, must report the violation of the Council.

465.38. Psychological Services for Schools.

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Council recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) An LSSP is a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Council rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

(d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology or LSSP. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Council to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs;

(B) Those individuals listed in §463.11; and

(C) Individuals seeking to fulfill the licensing requirements of §463.10 of this title (relating to Licensed Psychological Associate) or §463.12 of this title (relating to Licensed Psychologist).

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this section.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider

prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) section.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

(1) Texas Education Code;

(2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;

(3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;

(4) Texas Public Information Act, Texas Government Code, Chapter 552;

(5) Section 504 of the Rehabilitation Act of 1973;

(6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and

(7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Council rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) of this section, or in a private school however, must obtain informed consent as otherwise required by the Council rules.

The Texas Behavioral Health Executive Council proposes new rule §470.1, relating to schedule of sanctions.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code.

The proposed rules pertain to a schedule of sanctions for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Psychologists, in accordance with §501.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may propose these rules.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Mr. Spinks has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect there will be a benefit to licensees, applicants, and the general public because the proposed rules will provide greater efficiencies and consistency by consolidating all the same or similar requirements from the boards for marriage and family therapists, professional counselors, psychologists, and social workers and implementing the same under one agency, the Executive Council. Mr. Spinks has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with these rules.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rules are in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rules do not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rules are in effect, the Executive Council estimates that the proposed rules will have no effect on government growth. The proposed rules do not create or eliminate a government program; they do not require the creation or elimination of employee positions; they do not require the increase or decrease in future legislative appropriations to the this agency; they do not require an increase or decrease in fees paid to the agency; they do not create a new regulation, although they are new rules they essentially consolidate the rules from the applicable board for the profession into one agency, as required by statute, thereby reducing the amount of regulations in Texas; they do not expand an existing regulation, they provide clarification regarding existing regulation; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rules. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to Open.Records@tsbep.texas.gov.

The Executive Council specifically invites comments from the public on the issues of whether or not the proposed rules will have an adverse economic effect on small businesses; if the proposed rules are believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rules, describe and estimate the economic impact of the rules on small businesses, offer alternative methods of achieving the purpose of the rules; then explain how the Executive Council may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rules are to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See §2006.002(c) and (c-1) of the Tex. Gov't Code.

STATUTORY AUTHORITY. The rules are proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes these rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.2015 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose these rules to the Executive Council. The rules are specifically authorized by §501.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose these rules.

Lastly, the Executive Council proposes these rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

<rule>

470.1. Schedule of Sanctions. The following standard sanctions shall apply to violations of Chapter 501 and 22 TAC Part 21.
Figure: 22 TAC §470.01

Figure: 22 TAC §470.1

Board Rule	**Revocation**	**Suspension**	**Probated Suspension**	**Reprimand**	**Administrative Penalty**
465.2				X	
465.4				X	
465.6(a) & (b)				X	
465.6(c)					X
465.8			X		
465.9(a), (d), (e), & (f)			X		
465.9(b)-(c) & (g)-(j)				X	
465.10			X		
465.11				X	
465.12(a) & (d)-(i)			X		
465.12(b) & (c)				X	
465.13(a)(1)-(2) & (b)(4)		X			
465.13(a)(4) & (b)(1)-(3)			X		
465.13(a)(3) & (b)(5)	X				
465.14				X	
465.15(a) & (b)(2)-(5)				X	
465.15(b)(1)	X				
465.16(a)				X	
465.16(b)-(e)			X		
465.17(a)(1)-(2)			X		
465.17(a)(3)	X				
465.17(b)				X	
465.18(a)-(c) & (e)-(h)			X		
465.18(d)				X	
465.20				X	
465.21			X		
465.22(a)(1)-(6) & (b)-(e)				X	
465.22(a)(7)		X			
465.32					X
465.33(e) as it relates to sexual harassment and sexual impropriety			X		
465.33(e) as it relates to a sexual relationships and (g)	X				
465.33(f)		X			
465.34				X	
465.35(a) & (b)				X	
465.38				X	

Rule: 461.1. References by Board Members.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.1. References by Board Members. Current members of the Board may not provide references for an applicant for any license granted by the Board. Current Board members may document any training and/or experience an applicant received under the Board member's supervision.~~

Rule: 461.2. Unofficial Statements and/or Decisions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.2. Unofficial Statements and/or Decisions. Unofficial statements made by a Board member, a Board committee member, an advisory committee member, or staff member are not binding on the Board. No member or representative of the Board may make statements or decisions which are binding upon the Board in its deliberations upon ultimate issues presented for Board decision. Issues which ordinarily require Board decision include settlements of contested matters regarding applications, applicant qualifications and licensure, complaint resolution and/or legal matters involving modification, or Board rehearing of any prior decision rendered by the Board in performance of those statutory duties imposed by the provisions of the Psychologists' Licensing Act.~~

Rule: 461.3. Former Board Members

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.3. Former Board Members. A Board member whose term has expired and who has ceased to serve as a Board member will not be employed or utilized to represent the Board in any official capacity except to serve as a professional reviewer. A former Board member may not hold himself or herself out as an official or unofficial representative of the Board. Any such representations are not binding upon the Board in any way. Disclosure of confidential or privileged information obtained by a former Board member in his or her capacity as a Board member is unprofessional conduct and grounds for disciplinary action by the Board.~~

Rule: 461.4. Replacement and Duplicate Licenses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.4. Replacement and Duplicate Licenses. Replacement and duplicate licenses may be obtained upon application and payment of the appropriate fee.~~

Rule: 461.5. Contents of License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.5. Contents of License. The license issued to a licensee will state the licensee's name, license number, and highest relevant academic degree held at the time of licensure. The annual renewal permit issued to a licensee will state the licensee's name and license number, but will not reflect any academic degrees.~~

Rule: 461.6. File Updates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.6. File Updates. An applicant or licensee is responsible for keeping his or her professional file updated. All changes must be reported to the Board in writing within 90 days. Additionally, a name change request must be accompanied by a copy of a current driver's license, social security card, marriage license, divorce decree or court order stating name change.~~

Rule: 461.7. License Statuses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.7. Licenses Statuses.~~

~~(a) Active Status. Any licensee with a license on active status may practice psychology pursuant to that license, subject to any restrictions imposed by the Board. Any license that is not on inactive, delinquent, retired, resigned, expired or revoked status is considered to be on active status. Active status is the only status under which a licensee may engage in the practice of psychology.~~

~~(b) Inactive Status.~~

~~(1) A licensee with an unrestricted active license may elect inactive status through the Board's online licensing system. A licensee who elects inactive status must return his or her current renewal certificate or permit for the license to the Board and pay the associated fee.~~

~~(2) A licensee with an inactive license is not required to comply with the professional development requirements set forth in Board rule 461.11 while his or her license is inactive.~~

~~(3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire.~~

~~(4) In order to continue on inactive status, an inactive licensee must renew his or her inactive status each renewal period. Licensees may renew their inactive status through the Board's online licensing system by completing the online renewal requirements and paying the associated fee.~~

~~(5) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Board's office. When reactivating a license, a licensee must pay the renewal fee~~

associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.

(6) Any licensee reactivating a license from inactive status must provide proof of completion of 40 hours of professional development meeting the requirements of Board rule §461.11 of this title (relating to Professional Development) before reactivation will occur. The professional development hours must have been obtained within the 24 month period preceding the request for reactivation.

(7) A licensee wishing to reactivate his or her license that has been on inactive status for four years or more must take and pass the Jurisprudence Exam with the minimum acceptable score as set forth in Board rule §463.14 of this title (relating to Written Examinations) unless the licensee holds another license on active status with this Board.

(8) A licensee with a pending complaint may not place a license on inactive status. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.

(c) Delinquent Status. A licensee who fails to renew his/her license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. The Board may sanction a delinquent licensee for violations of Board rules.

(d) Restricted Status. Any license that is suspended, on probated suspension, or required to fulfill some requirements in a Board order is a restricted license.

(e) Retirement Status. A licensee who is on active or inactive status with the Board may retire his/her license by notifying the Board in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire his/her license by notifying the Board in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire his/her license. A licensee who retires his/her license shall be reported to have retired in good standing.

~~(f) Resignation Status. A licensee may resign only upon express agreement by the Board. A licensee who resigns shall be reported as:~~

~~(1) Resigned in lieu of adjudication if permitted to resign while a complaint is pending; or~~

~~(2) Resigned in lieu of further disciplinary action if permitted to resign while the license is subject to restriction.~~

~~(g) Expired Status. A license that has been delinquent for twelve months or more or any inactive license that is not renewed or reactivated is considered to be expired.~~

~~(h) Revoked Status. A license is revoked pursuant to Board Order requiring revocation as a disciplinary action.~~

Rule: 461.8. Remailing Fee

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.8. Remailing Fee. A license that has been mailed and not picked up by the addressee and which has been returned to the Board through no fault of the Board shall not be remailed until the licensee pays a remailing fee. See Chapter 473 of this title (relating to Fees).~~

Rule: 461.9. Conflicts of Interest and Recusals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.9. Conflicts of Interest and Recusals.~~

~~(a) A board member who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties in a matter pending before the board, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Texas Government Code. However, if the required disclosure relates to a matter to be considered during a closed meeting, the board member shall disclose the conflict during the closed meeting. A board member may not vote or otherwise participate in any discussion or decision on a pending matter where the board member's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict disclosed by a board member shall be entered in the minutes of a meeting or the certified agenda.~~

~~(b) An individual who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties while serving on a committee, temporary suspension or disciplinary panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as the executive director. The individual may not vote or otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.~~

~~(c) A board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Texas Government Code regarding a complaint, eligibility proceeding, or disciplinary action previously heard by the board member while serving on a temporary suspension or disciplinary panel. A board member who is disqualified under this subsection shall recuse himself or herself from any voting or discussions on the matter, and the recusal shall be entered in the minutes of the meeting or the certified agenda.~~

~~(d) Any individual who is required to make a disclosure, recuse himself or herself, or is restricted from voting or participating in some manner under this rule, shall also refrain from improperly influencing or attempting to improperly influence the discussion or decision on a matter in which the individual is prohibited from participating.~~

~~(e) A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the executive director, who shall then forward the information to the individual.~~

~~(f) It is presumed that the judgment of a reasonable person who is subject to this rule would not be materially affected because the individual holds a license issued by this agency.~~

Rule: 461.10. License Required.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.10. License Required.~~

~~(a) A person may not engage in or represent that the person is engaged in the practice of psychology within this State, unless the person is licensed or been issued trainee status by the Board, or the person is exempt under §501.004 of the Psychologists' Licensing Act.~~

~~(b) A person is engaged in the practice of psychology within this State if any of the criteria set out in §501.003(b) of the Psychologists' Licensing Act occurs within this State, either in whole or in part.~~

~~(c) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Board's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:~~

~~(1) The person is enrolled in a formal post-doctoral program that is:~~

~~(A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or~~

~~(B) substantially equivalent to a program described in subparagraph (A) of this paragraph;~~

~~(2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and~~

~~(3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.~~

~~(d) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:~~

(1) An organized experience with a planned and programmed sequence of supervised training experiences.

(2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.

(3) Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.

(4) A minimum of 2 hours per week of face-to-face supervision.

(5) A minimum of 2 additional hours per week of learning activities.

(6) A minimum of 25% of the fellow's time is spent providing professional psychological services.

(7) Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Board requirements.

(8) A requirement that participants use titles such as intern, resident, fellow, or trainee.

(9) Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for evaluations (minimum 2 per year), and a statement that the program meets Texas' licensure requirements.

(10) At a minimum, an informal due process procedure regarding deficiencies and grievances.

(11) A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.

Rule: 461.11. Professional Development

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.11. Professional Development.~~

~~(a) Requirements. All licensees of the Board are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period that they hold a license from the Board regardless of the number of separate licenses held by the licensee. Of these 40 hours, all licensees must complete a minimum of six hours of professional development in the areas of ethics, the Board's Rules of Conduct, or professional responsibility, and a minimum of six hours in the area of cultural diversity (these include, but are not limited to age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status).~~

~~(b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Board shall make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Board may require a licensee to produce, in addition to the documentation required by subsection (d) of this section, course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. The Board does not pre-approve professional development credit. The Board shall not allow professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.~~

~~(c) Professional development.~~

~~(1) Required hours may be obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit more than once:~~

(A) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;

(B) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;

(C) presentation of a program or workshop; and

(D) authoring or editing publications.

(2) Providers include:

(A) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; or

(B) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.

(3) At least half of the required 40 hours of professional development must be obtained from or endorsed by a provider listed in subsection (c)(2)(A) of this section.

(4) Credits will be provided as follows:

(A) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.

(B) For teaching or attendance of a graduate level psychology course, four hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.

(C) For presentations of workshops or programs, three hours for each hour actually presented, for a maximum of six hours per year. A particular workshop or presentation topic may not be utilized for professional development credit more than once.

(D) For publications, eight hours for authoring or co-authoring a book; six hours for editing a book; four hours for authoring a published article or book chapter. A maximum credit of eight hours for publication is permitted for any one year.

(5) Professional development hours must have been obtained during the 24 month renewal period for which they are submitted. If the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements. A professional development certificate may not be considered towards fulfilling the requirements for more than one renewal period.

(d) Documentation. It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Board. Licensees shall maintain documentation of all professional development hours claimed for at least five years. The Board will accept as documentation of professional development:

(1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;

(2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;

(3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;

(4) for presenters of professional development workshops or programs, copies of the official program announcement naming the

licensee as a presenter and an outline or syllabus of the contents of the program or workshop;

(5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;

(6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.

(e) Electronic Declaration of Professional Development. All licensees must declare, on or before their renewal date, the professional development being submitted for the current renewal period through the Board's online renewal system. Licensees shall not submit documentation of professional development credits obtained unless requested to do so by the Board.

(f) Audit. The Board conducts two types of audits. Licensees shall comply with all Board requests for documentation and information concerning compliance with professional development and/or Board audits.

(1) Random audits. Each month, 10% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the Board's professional development requirements. The Board will notify a licensee by mail of the audit. Upon receipt of an audit notification, a licensee must submit his or her professional development documentation through the Board's online renewal system, or by fax, email, or regular mail before a license will be renewed.

(2) Individualized audits. The Board will also conduct audits of a specific licensee's compliance with its professional development requirements at any time that the Board determines that there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.

Rule: 461.12. Prohibition Against Dual Office Holding.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.12. Prohibition Against Dual Office Holding.~~

~~(a) Neither Board members nor the Executive Director may accept an offer to serve in another nonelective office unless they first obtain from the Board a finding that they have satisfied Article XVI, Section 40, of the Texas Constitution.~~

~~(b) The Board must make a written record of any finding under subsection (a). The finding must include any compensation that the Board member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment~~.

Rule: 461.13. Errors

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.13. Errors. If the Board discovers an error was made in processing an application, in examining an applicant, or in any of its other activities, the Board has the authority to correct this error.~~

Rule: 461.14. Conflicts Between Other Laws and Board Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.14. Conflicts Between Other Laws and Board Rules. In the event of a conflict between a Board rule and the state or federal constitution; a state or federal statute; or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.~~

Rule: 461.15. Compliance with Act, Rules, Board Directives and Orders.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.15. Compliance with Act, Rules, Board Directives and Orders. Licensees must comply with the Act, Rules, Board Directives and Board Orders and Must cooperate with Board investigations as prescribed in §465.35 of this title. Failure to comply may subject the licensee to a Board-initiated complaint and disciplinary action.~~

Rule: 461.16. Filing of False or Misleading Information with the Board.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.16. Filing of False or Misleading Information with the Board.~~

~~(a) Applicants. Applicants are prohibited from providing misleading or false information in their applications and required documentation for licensure. For an infraction of this type, the Board may agree to process the application pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Board may deny licensure.~~

~~(b) Licensees. The Board will file a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application for licensure or renewal. For an infraction that led to the licensure or renewal of an unqualified person, the Board may revoke the license or deny any future renewal of the license.~~

Rule: 461.17. Profile Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.17. Profile Information. The Board is required to establish a system whereby licensed psychologists will have public profile information maintained by the Board. The Board must collect a fee to be set by the Texas Online Authority beginning in 2002 for this system. Licensed psychologists must supply this information as a condition of annual renewal. This information may be supplied as a part of the online renewal process. The Board collects the following information as part of its profile information on licensed psychologists:~~

~~(1) The name of the licensed psychologist and address and telephone number of the psychologist's primary practice location;~~

~~(2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to persons with disabilities, as defined by federal law;~~

~~(3) the type of language translating services, including translating services for a person with impairment of hearing, that the psychologist provides for patients, clients, users, customers, or consumers, as applicable;~~

~~(4) if applicable, insurance information, including whether the psychologist participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;~~

~~(5) the education and training received by the psychologist, as required by the licensing entity;~~

~~(6) any specialty certification held by the psychologist;~~

~~(7) the number of years the person has practiced as a psychologist; and~~

~~(8) if applicable, any hospital affiliation of the psychologist.~~

Rule: 461.19. Petition for Rulemaking.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.19. Petition for Rulemaking. Any person may petition for rulemaking in accordance with §2001.021 of the Administrative Procedure Act by submitting a written request to the Board at least 60 days prior to a Board meeting setting forth or identifying the rule the petitioner wants the Board to adopt or change, the reasons why the petitioner believes the requested rulemaking is necessary, and attaching a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined.~~

Rule: 461.20. Agency Staff Training and Education.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.20. Agency Staff Training and Education.~~

~~(a) In accordance with the State Employee Training Act, Board staff may be permitted or required to attend training or education programs if those programs are related to the employee's duties or prospective duties, and the training materially aids effective administration of the Psychologists' Licensing Act or Board rules and serves an important public purpose.~~

~~(b) The Board's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.~~

~~(c) Employees who receive training must utilize the training opportunity to prepare for technological and legal developments facing the Board, or to increase their work capabilities or competence.~~

~~(d) An employee, prior to receiving training for three or more months, during which the employee does not perform his or her regular duties, must enter into a written agreement with the Board to comply with the requirements of Tex. Gov't Code Ann. §656.103(a)(1). Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.~~

~~(e) The Board shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Board's own policies relating to employee reimbursement.~~

Rule: 461.21. Sick Leave Pool.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.21. Sick Leave Pool.~~

~~(a) The Board hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.~~

~~(b) The Board's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Texas Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.~~

~~(c) The Executive Director shall develop and prescribe procedures for the operation of the sick leave pool, and include such procedures in the Board's personnel manual.~~

Rule: 461.22. Agency Contracts and Purchasing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.22. Agency Contracts and Purchasing.~~

~~(a) In accordance with Tex. Gov't Code Ann. §2155.076, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 Tex. Admin. Code §20.384. All vendor protests under this rule must be submitted to the Board's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Board for final determination. The Board shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Board's retention schedule.~~

~~(b) In accordance with Tex. Gov't Code Ann. §2156.005, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 Tex. Admin. Code §20.35.~~

~~(c) In accordance with Tex. Gov't Code Ann. §2260.052, the Board adopts by reference the rules of the Office of the Attorney General in 1 Tex. Admin. Code Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.~~

~~(d) In accordance with Tex. Gov't Code Ann. §2261.202, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.~~

Rule: 461.35. Use of Historically Underutilized Businesses (HUBS).

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.35. Use of Historically Underutilized Businesses (HUBS). In accordance with Texas Government Code §2161.003, the Board adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B (relating to Historically Underutilized Business Program).~~

Repeal of Chapter 463

Rule: 463.1. Types of Licensure.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.1. Types of Licensure. The Board accepts application for four types of license to practice psychology in the state of Texas:~~

~~(1) Licensed Psychological Associate. This is a license for qualified individuals with a graduate degree to practice psychology. Requirements for the psychological associate license are found in §463.8 of this title (relating to Licensure as a Psychological Associate) and §463.14 of this title (relating to Written Examinations).~~

~~(2) Licensed Specialist in School Psychology. This license is required by law for the practice of school psychology in the public schools of Texas. Requirements for the specialist in school psychology license are found in §463.9 of this title (relating to Licensure as a Specialist in School Psychology) and §463.14 of this title.~~

~~(3) Provisionally Licensed Psychologist. This is a doctoral level license to practice psychology under the supervision of a licensed psychologist. This license is a prerequisite for licensure as a psychologist. Requirements for provisionally licensed psychologist are found in §463.10 of this title (relating to Provisionally Licensed Psychologist) and §463.14 of this title.~~

~~(4) Licensed Psychologist. This is a doctoral level license for the independent practice of psychology. It is obtained by two means:~~

~~(A) Obtaining provisional licensure as a psychologist and completing the required two years of supervised experience. Requirements for licensure as a psychologist are found in §463.11 of this title (relating to Licensed Psychologist), and §463.14 of this title.~~

~~(B) Applying from a jurisdiction which holds a reciprocity agreement with Texas, meeting the Board's requirements~~

~~for licensure by reciprocity, and passing the Board's Jurisprudence Exam. Criteria for reciprocity jurisdictions are listed in §463.29 of this title (relating to Reciprocity Requirements). Requirements for licensure as a psychologist by means of reciprocity are found in §463.12 of this title (relating to Licensed Psychologist by Reciprocity) and §463.14 of this title.~~

Rule: 463.2. Application Process

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.2. Application Process. Applications for licensure are processed in the following manner:~~

~~(1) An individual must download, or otherwise obtain and complete the application packet for the type of licensure desired from the Board's website. No applicant can have more than one application pending before the Board at one time, unless the second application is to become a licensed specialist in school psychology.~~

~~(2) An applicant submits the completed application form, any other information required by the Board, and the application filing fee. An application which contains an incorrect fee amount or which does not include the information required to be submitted must be returned to the applicant. The responsibility of ensuring a complete application resides with the applicant. The application packet will contain a checklist which should be followed carefully. An incomplete application remains in the active file for 90 days following receipt by the Board, at the end of which time, if still incomplete, it is void. If licensure is sought again, a new application and filing fee must be submitted.~~

~~(3) Applications which contain all required information are reviewed by Board staff, and if necessary the Applications Committee of the Board, to determine if the applicants are eligible to sit for the examinations.~~

~~(4) Once an application is reviewed, the applicant receives a letter from the Board approving or denying the applicant to sit for the examinations. If the letter indicates the applicant is approved, the applicant may then submit an examination application and the appropriate fees for any required examinations.~~

~~(5) After sitting for examination(s), an applicant is informed in writing of the results of the examination(s). An applicant who has passed~~

~~the examination(s) is informed in writing that the applicant has been licensed.~~

~~(6) If an applicant's application for licensure is denied, the applicant shall have 20 days from the date of denial to submit a written request to the Board for a hearing at the State Office of Administrative Hearings. The Board must receive the written request on or before the 20th day following the date of denial for the request to be timely made. If a timely request is made, the Board shall refer the contested case to the State Office of Administrative Hearings for a hearing. If a timely written request is not made, the denial is final.~~

Rule: 463.3. Applicants with Pending Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.3. Applicants with Pending Complaints. For any applicant against whom a complaint is filed with this Board, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. If the complaint is not resolved within 180 days after an application has been held in abeyance, the Board shall review the complaint and make a determination as to whether to issue the license notwithstanding the complaint. In making the determination, the Board shall consider any relevant factor, including the potential for harm to the public if the license is granted, and the nature and severity of the allegations. The applicant will be permitted to take all required exams as scheduled but will not be licensed until approved by the Board.~~

Rule: 463.4. Applicants with Disabilities

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.4. Applicants with Disabilities.~~

~~(a) The Texas State Board of Examiners of Psychologists shall comply with applicable provisions of the Americans with Disabilities Act in its applications procedures by providing reasonable accommodations that do not violate the Board's Act and Rules.~~

~~(b) It is the responsibility of the individual applicant to inform the Board in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the Board. Only requests which give the Board sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency shall be considered.~~

~~(c) Dyslexia. Dyslexia is defined by §51.970 of the Texas Education Code. The Board will provide reasonable accommodation to an applicant for licensure who complies with subsection (b) of this section and who provides proof of a diagnosis of dyslexia from a qualified practitioner. The practitioner should also identify the type of examination accommodation that is recommended for the applicant.~~

Rule: 463.5. Application File Requirements.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.5. Application File Requirements. To be complete, an application file must contain whatever information or examination results the Board requires. Unless specifically stated otherwise by Board rule, all applications for licensure by the Board must contain:~~

~~(1) An application and required fee(s);~~

~~(2) Official transcripts indicating the date the degree required for licensure was awarded or conferred. Transcripts must be sent directly to the Board's office from all colleges/universities where post-baccalaureate course work was completed;~~

~~(3) Documentation that applicant has complied with Board Rule §463.14 of this title (relating to Written Examinations);~~

~~(4) A criminal history record check of the applicant from the Texas Department of Public Safety and the Federal Bureau of Investigation; and~~

~~(5) Supportive documentation and other materials the Board may deem necessary, including current employment arrangements and the name of all jurisdictions where the applicant currently holds a certificate or license to practice psychology.~~

Rule: 463.6. Regionally Accredited Institutions.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.6. Regionally Accredited Institutions. A regionally accredited educational institution stated in §§501.255(a)(1)(A), 501.259, 501.004 and 501.260 of the Act is defined as an educational institution accredited by one of the following regional accrediting organizations:~~

~~(1) Southern Association of Colleges and Schools Commission on Colleges~~

~~(2) Western Association of Schools and Colleges, Senior College and University Commission~~

~~(3) Northwest Commission on Colleges and Universities~~

~~(4) Higher Learning Commission~~

~~(5) New England Association of Schools and Colleges~~

~~(6) Middle States Commission on Higher Education, also known as the Mid-Atlantic Region Commission on Higher Education.~~

Rule: 463.7. Criminal History Records Reports.

Action: Proposed Repeal

Comment:

~~463.7. Criminal History Records Reports.~~

~~(a) Before issuing a license, the Board will obtain or require the applicant to obtain a criminal history record report as determined by the Board.~~

~~(b) The Board will obtain updated criminal history record reports on all licensees quarterly from the Texas Department of Public Safety.~~

~~(c) The Board may obtain an updated criminal history record report at any time on a licensee alleged to have violated the Act or rules of the Board.~~

~~(d) Each licensee who was not required to submit a fingerprint criminal history record report as a condition of licensure must submit a fingerprint criminal history record report to the Board as a condition for renewal. This one-time renewal requirement begins for January 2015 renewals and will be phased in with approximately one-fourth of licensees required to submit their reports in the first calendar year and remaining licensees required to submit their reports in the following three calendar years as prescribed by the Board. A report must be received by the Board before the eligible licensee is allowed to renew the license.~~

~~(e) A licensee requesting their license be returned to active status from inactive status, must undergo a fingerprint criminal history check before their license will be returned to active status if the licensee has not submitted to a fingerprint criminal history check for the Board in the past. A report must be received by the Board before the license will be returned to active status.~~

Rule: 463.8. Licensed Psychological Associate

Action: Proposed Repeal

Comment:

~~463.8. Licensed Psychological Associate.~~

~~(a) Licensure Requirements. An applicant for licensure as a psychological associate must:~~

~~(1) hold a graduate degree in psychology from a regionally accredited institution of higher education;~~

~~(2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;~~

~~(3) pass all examinations required by the board and meet each of the criteria listed in §501.255(a)(2)-(9) of the Occupations Code; and~~

~~(4) demonstrate graduate level coursework in each of the following areas:~~

~~(A) Psychological Foundations:~~

~~(i) the biological bases of behavior;~~

~~(ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;~~

~~(iii) the social, cultural, and systemic bases of behavior;~~

~~(iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;~~

~~(B) Research and Statistics:~~

~~(i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;~~

~~(ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;~~

(C) Applied Psychology:

(i) the history, theory, and application of psychological principles;

(ii) the application of psychological theories to individuals, families, and groups;

(D) Assessment:

(i) intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;

(ii) socio-economic, including behavioral, adaptive, and cultural assessment;

(E) Interventions:

(i) the application of therapeutic techniques;

(ii) behavior management;

(iii) consultation; and

(F) Scientific and Professional, Legal, and Ethical Issues.

(b) Degree Requirements.

(1) For purposes of this rule:

(A) a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"

(B) a specialist degree shall be treated as a graduate degree; and

(C) one semester credit hour equals one and one-half quarter credit hours.

(2) A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.

(3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the board with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

(1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.

(2) Notwithstanding subsection (c)(1) and subject to the limitations set out in subsection (c)(3) below, a licensed psychological associate may practice independently if:

(A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;

(B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and

(C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.

(3) A licensed psychological associate meeting the requirements of subsection (c)(2) shall be approved for independent practice, but remains subject to all board rules, including Board rule §465.9 relating to competency.

(4) Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.

(5) Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.

(d) Notwithstanding subsection (c)(3), an application for independent practice may be denied if a gap of more than two years exists between the

~~completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Board rule §463.11 shall govern any request for a waiver under this rule.~~

~~(e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."~~

~~(f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Board describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Board's website.~~

~~(g) Continuation of Prior Law.~~

~~(1) Notwithstanding subsection (b)(1)(A), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.~~

~~(2) Notwithstanding subsection (b)(2), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.~~

~~(h) Notwithstanding subsections (c)(1)-(3), a licensed psychological associate with an active license as of September 1, 2017 who maintained an active license throughout the three years preceding that date, is considered to have met the requirements of subsection (c)(2) and may practice independently in accordance with subsection (c)(3).~~

~~Rule: 463.9. Licensed Specialist in School Psychology.~~

~~Action: Proposed Repeal~~

~~Comment:~~

~~463.9. Licensed Specialist in School Psychology.~~

~~(a) Application Requirements. A completed application for licensure as a specialist in school psychology includes the following, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements):~~

~~(1) Documentation of an appropriate graduate degree; and~~

~~(2) Documentation from the National School Psychologists' Certification Board sent directly to the Board indicating the applicant holds current valid certification as a Nationally Certified School Psychologist (NCSP); or documentation of the following sent directly to the Board:~~

~~(A) transcripts that verify that the applicant has met the requirements set forth in subsection (b) of this section;~~

~~(B) proof of the internship required by subsection (c) of this section if the applicant did not graduate from either a training program approved by the National Association of School Psychologists (NASP) or a training program in school psychology accredited by the American Psychological Association (APA); and~~

~~(C) the score that the applicant received on the School Psychology Examination sent directly from the Education Testing Service.~~

~~(b) Training Qualifications.~~

~~(1) Applicants for licensure as a specialist in school psychology who hold a valid NCSP certification or who have graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association will be considered to have met the training and internship requirements of this rule.~~

~~(2) Applicants for licensure who do not hold a valid NCSP certification, or who did not graduate from a training program~~

~~approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited academic institution. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited academic institution. A maximum of 12 internship hours may be counted toward the 60 hour requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology. Applicants applying under this paragraph must submit evidence of graduate level coursework as follows:~~

~~(A) Psychological Foundations, including:~~

~~(i) biological bases of behavior;~~

~~(ii) human learning;~~

~~(iii) social bases of behavior;~~

~~(iv) multi-cultural bases of behavior;~~

~~(v) child or adolescent development;~~

~~(vi) psychopathology or exceptionalities;~~

~~(B) Research and Statistics;~~

~~(C) Educational Foundations, including any of the following:~~

~~(i) instructional design;~~

~~(ii) organization and operation of schools;~~

~~(iii) classroom management; or~~

~~(iv) educational administration;~~

~~(D) Assessment, including:~~

~~(i) psychoeducational assessment;~~

(ii) socio-emotional, including behavioral and cultural, assessment;

(E) Interventions, including:

(i) counseling;

(ii) behavior management;

(iii) consultation;

(F) Professional, Legal and Ethical Issues; and

(G) A Practicum.

(c) Completion of internship. Applicants must have completed an internship with a minimum of 1200 hours. The internship must also meet the following criteria:

(1) At least 600 of the internship hours must have been completed in a public school.

(2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Board rule §463.11(d)(1) and (d)(2)(C) of this title.

(3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.

(4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.

(5) Unless authorized by the Board, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.

(7) Internship hours must be obtained in not less than one or more than two academic years.

(8) An individual completing an internship under this rule must be designated as an intern.

(9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.

(10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.

(d) Additional Requirements. In addition to the requirements of subsection (a) through (c) of this section, applicants for licensure as a specialist in school psychology must meet the requirements imposed under §501.255(a)(2) - (9) of the Psychologists' Licensing Act.

(e) Examinations. Applicants must take the National School Psychology Examination and obtain at least the current cut-off score for the NCSP certification before applying for licensure as a specialist in school psychology. Following approval to sit for Board exams, an applicant must take and pass the Jurisprudence Examination within the time required by Board rule §463.19.

(f) Trainee Status.

(1) An applicant for the specialist in school psychology license who has not yet passed the Board's Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.

(2) A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Board's Jurisprudence Examination.

(3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.

(4) A trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be

made the subject of an eligibility proceeding. The one year period for trainee status shall not be tolled by any suspension of the trainee status.

(5) Following official notification from the Board upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.

(6) An individual practicing under trainee status must be designated as a trainee.

(g) Provision of psychological services in the public schools by unlicensed individuals.

(1) An unlicensed individual may provide psychological services under supervision in the public schools if:

(A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;

(B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Board that has not been denied, returned, or gone void under Board rule §463.2 of this title (relating to Application Process); or

(C) the individual has been issued a trainee status letter.

(2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under Section 501.004 of the Psychologists' Licensing Act.

(3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Board.

(4) The authority to practice referenced in paragraphs (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Board will not

~~issue more than one trainee status letter to an individual, regardless of the number of applications filed.~~

Rule: 463.10. Provisionally Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.10. Provisionally Licensed Psychologists.~~

~~(a) Application Requirements.~~

~~(1) An application for provisional licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements), an official transcript which indicates that the applicant has received a doctoral degree in psychology. Additionally, the applicant must meet the requirements of §501.255 of the Psychologists' Licensing Act.~~

~~(2) An application for provisional licensure as a psychologist may be filed up to sixty days prior to the date the applicant's doctoral degree is officially conferred, but remains subject to Board rule §463.2 of this title (relating to Application Process).~~

~~(b) Degree Requirements.~~

~~(1) The applicant's transcript must state that the applicant has a doctoral degree that designates a major in psychology. Additionally, the doctoral degree must be from a program accredited by the American Psychological Association or from a regionally accredited institution.~~

~~(2) The substantial equivalence of a doctoral degree received prior to January 1, 1979, based upon a program of studies whose content is primarily psychological means a doctoral degree based on a program which meets the following criteria:~~

~~(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.~~

(B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

(C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.

(D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or provisionally licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.

(E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.

(F) The program must have an identifiable body of students who matriculated in the program.

(G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.

(H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a

master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(I) The following curricular requirements must be met and demonstrated through appropriate course work:

(i) Scientific and professional ethics related to the field of psychology.

(ii) Research design and methodology, statistics.

(iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Board evidence of competency in each of the four core areas.

(I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.

(II) Cognitive-affective basis of behavior: Learning, thinking, motivation, emotion.

(III) Social basis of behavior: social psychology, group processes, organizational and system theory.

(IV) Individual differences: personality theory, human development, abnormal psychology.

(J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must

demonstrate a minimum of 24 hours in his/her designated specialty area.

(3) Any person intending to apply for provisional licensure under the substantial equivalence clause must file with the Board an affidavit showing:

(A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;

(B) Information regarding each of the instructors in the courses submitted as substantially equivalent;

(C) Appropriate, published information from the university awarding the degree, demonstrating that in paragraph (2)(A)(J) of this subsection have been met.

(c) An applicant for provisional licensure as a psychologist who is accredited by Certificate of Professional Qualification in Psychology (CPQ) or the National Register or who is a specialist of ABPP will have met the following requirements for provisional licensure: submission of an official transcript which indicates the date the doctoral degree in psychology was awarded or conferred, and submission of documentation of the passage of the national psychology examination at the doctoral level at the Texas cut-off score. All other requirements for provisional licensure must be met by these applicants. Additionally, these applicants must provide documentation sent directly from the qualifying entity to the Board office declaring that the applicant is a current member in the organization and has had no disciplinary action from any state or provincial health licensing board.

(d) Trainee Status for Provisional Applicants.

(1) An applicant for provisional licensure who has not yet passed the EPPP and Jurisprudence Examination, but who otherwise meets all provisional licensing requirements and is seeking to acquire the supervised experience required by §501.252(b)(2) of the Psychologists' Licensing Act, may practice under the supervision of a Licensed Psychologist as a provisional trainee for not more than two years.

(2) A provisional trainee status letter shall be issued to an applicant upon proof of provisional licensing eligibility, save and except proof of passage of the EPPP and Jurisprudence Examination. However, a provisional trainee status letter will not be issued to an

~~applicant who was issued a provisional trainee status letter in connection with a prior application.~~

~~(3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.~~

~~(4) A provisional trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The two-years period for provisional trainee status shall not be tolled by any suspension of the provisional trainee status.~~

~~(5) Following official notification from the Board upon passage of the EPPP and Jurisprudence Examination, or the expiration of two years, whichever occurs first, an individual's provisional trainee status shall terminate.~~

Rule: 463.11. Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.11. Licensed Psychologists.~~

~~(a) Application Requirements. An application for licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5(1) of this title (relating to Application File Requirements):~~

~~(1) Documentation of active licensure as a provisionally licensed psychologist in good standing.~~

~~(2) Documentation of supervised experience from a licensed psychologist which satisfies the requirements of the Board. The formal internship should be documented by the Director of Internship Training when possible, but may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program if the Director of Internship Training is unavailable.~~

~~(3) Documentation of licensure in other jurisdictions, including information on disciplinary action and pending complaints, sent directly to the Board.~~

~~(b) Degree Requirements. The degree requirements for licensure as a psychologist are the same as for provisional licensure as stated in Board rule §463.10 of this title (relating to Provisionally Licensed Psychologist).~~

~~(c) An applicant who is actively licensed as a psychologist in another jurisdiction, and who meets each of the following requirements, is considered to have met the requirements for supervised experience under this rule:~~

~~(1) The applicant must affirm that he or she has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum~~

~~of 1,500 hours) must have been completed after the doctoral degree was conferred or completed; and~~

~~(2) The applicant must submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB.~~

~~(d) Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been received after obtaining either provisional trainee status or provisional licensure, and at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program. A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant who received his or her doctoral degree prior to September 1, 2017. Following the conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting; while licensed or authorized to practice in another jurisdiction; or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisional trainee or provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this subsection if the experience was obtained under the supervision of a licensed psychologist.~~

~~(1) General. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:~~

~~(A) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.~~

~~(B) Gaps Related to Supervised Experience.~~

~~(i) Unless a waiver is granted by the Board, an application for a psychologist's license will be denied if:~~

(I) a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date the applicant began obtaining his or her hours of supervised experience under provisional trainee status or provisional licensure; or

(II) a gap of more than two years exists between the completion date of an applicant's hours of supervised experience acquired as a provisional trainee or provisionally licensed psychologist, and the date of application.

(ii) The Board shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:

(I) proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Act, during any gap period;

(II) proof of annual professional development, which at a minimum meets the Board's professional development requirements, during any gap period;

(III) proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or

(IV) proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.

(C) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program

~~whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.~~

~~(D) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.~~

~~(E) All supervised experience must be received from a psychologist licensed at the time supervision is received.~~

~~(F) The supervising psychologist must be trained in the area of supervision provided to the supervisee.~~

~~(G) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.~~

~~(H) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Board rules.~~

~~(I) Unless authorized by the Board, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.~~

~~(J) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use his or her title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use his or her title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Board rule.~~

(2) Formal Internship. The formal internship hours must be satisfied by one of the following types of formal internships:

(A) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(B) The successful completion of an organized internship meeting all of the following criteria:

(i) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.

(ii) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.

(iii) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.

(iv) Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.

(v) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.

(vi) At least 25% of trainee's time must be in direct patient/client contact.

(vii) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.

(viii) Training must be post-clerkship, post-practicum and post-externship level.

(ix) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.

(x) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or

(C) The successful completion of an organized internship program in a school district meeting the following criteria:

(i) The internship experience must be provided at or near the end of the formal training period.

(ii) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.

(iii) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.

(iv) The internship experience must occur in a setting appropriate to the specific training objectives of the program.

(v) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.

(vi) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.

(vii) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.

(viii) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.

(ix) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.

(x) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.

(xi) The internship experience must be conducted in a manner consistent with the current legal-ethical standards of the profession.

(xii) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.

(xiii) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.

(3) Industrial/Organizational Requirements. Individuals enrolled in an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete 3,500 hours of supervised experience meeting the requirements of paragraph (1) of this subsection, at least 1,750 of which must have been received as a provisional trainee or provisionally licensed psychologist. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Board rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.

(4) Licensure Following Retraining.

(A) In order to qualify for licensure after undergoing retraining, an applicant must demonstrate the following:

(i) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing retraining;

(ii) completion of a formal, accredited post-doctoral retraining program in psychology which included at least 1,750 hours in a formal internship;

(iii) retraining within the two year period preceding the date of application for licensure under this rule, or continuous employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act since receiving their doctoral degree; and

(iv) upon completion of the retraining program, at least 1,750 hours of supervised experience after obtaining either provisional trainee status or provisional licensure.

(B) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.

Rule: 463.12. Licensure by Reciprocity.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.12. Licensure by Reciprocity. An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:~~

~~(1) Submit an application and corresponding fee;~~

~~(2) Submit written verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity. The written verification must be sent directly to the Board from the other jurisdiction;~~

~~(3) Submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB;~~

~~(4) Pass the jurisprudence examination;~~

~~(5) Undergo a fingerprint based criminal history check which reflects no disqualifying criminal history; and~~

~~(6) Submit any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.~~

463.14. Written Examinations

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.14. Written Examinations.~~

~~(a) Jurisprudence Examination. All applicants for licensure by the Board are required to pass the Jurisprudence Examination prior to licensure.~~

~~(b) Examination in School Psychology. Applicants for licensure as a specialist in school psychology must take the National School Psychology Examination administered by the Educational Testing Service and obtain at least the current cut-off score for the National Certified School Psychologist before applying for the Licensed Specialist in School Psychology.~~

~~(c) Examination for Professional Practice in Psychology. All applicants for licensure as a psychological associate, provisional licensure as a psychologist, or licensure as a psychologist are required to pass the Examination for Professional Practice in Psychology (EPPP) prior to the Board granting licenses.~~

~~(d) Applicants Having Previously Taken the EPPP. An applicant for licensure who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided that:~~

~~(1) the applicant's score satisfies the Board's current minimum acceptable score for licensure; and~~

~~(2) the applicant can demonstrate that he/she has remained professionally involved in psychology; i.e., at least half-time professional employment and/or academic enrollment in a regionally accredited educational institution.~~

~~(e) Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored on the pencil and paper version of the test. For computer-delivered EPPP examinations, the cutoff scaled scores is 500.~~

~~(f) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the jurisprudence examination for all licensure applicants is ninety percent (90%).~~

Rule: 463.16. Disclosure of Examination Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.16. Disclosure of Examination Information. It is a violation of Board rules for any applicant or licensee to disclose any information about the contents or administration of the Board's examinations that could affect the validity of the examination.~~

Rule: 463.17. Rescheduling of Examination Due to Religious Holy Day.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.17. Rescheduling of Examination Due to Religious Holy Day.~~

~~(a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Board on that religious holy day will be allowed to take the examination on an alternate date.~~

~~(b) Applicants wishing to take an examination scheduled on a religious holy day on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.~~

~~(c) The Board may extend the time period for completing Board examinations set forth in Board rule §463.19 of this title (relating to Time Limit on Examination Failures and Passing Scores), as needed when scheduling an alternate examination date.~~

Rule: 463.18. Failing Written Examinations.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.18. Failing Written Examinations. Applicants who fail the written examinations are permitted to take them again by paying additional examination fees.~~

Rule: 463.19. Time Limit on Examination Failures and Passing Scores.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.19. Time Limit on Examination Failures and Passing Scores.~~

~~(a) Applicants must successfully pass all examinations required of them within two years from the date they are approved by the Board to sit for the exams.~~

~~(b) For the purpose of fulfilling application requirements for licensure, a passing score on the Board's Jurisprudence Examination is valid for only four years, unless the applicant has other active licensure with the Board at the time the application is received by the Board~~.

Rule: 463.20. Refunds and Transfer of Application and Examination Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.20. Refunds and Transfer of Application and Examination Fees.~~

~~(a) Application fees are non-refundable and non-transferable.~~

~~(b) The Jurisprudence Examination fee may be transferred to a subsequent examination when an applicant fails to timely complete the examination, if an applicant makes a written request for a transfer and provides the Board with documentation demonstrating good cause for why the applicant failed to timely complete the examination. Upon written request and showing of good cause, the Board shall excuse the applicant's failure to timely complete the examination, and allow the Board's portion of the examination fee to be applied, one time only, toward a subsequent examination. The Applicant, however, must pay that portion of the examination fee attributable to the third-party vendor administering the online examination, before they will be allowed to retake the examination.~~

Rule: 463.21. Board Members as Reviewers of Examination.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.21. Board Members as Reviewers of Examination. All Board members serve as reviewers of written examination materials and procedures unless a member is matriculated in a graduate program in psychology or is related within the second degree of affinity or within the second degree of consanguinity to a person who matriculated in a graduate program in psychology.~~

Rule: 463.22. Reinstatement of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.22. Reinstatement of a License.~~

~~(a) A person whose license to practice psychology has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.~~

~~(b) An application for reinstatement shall be in writing and in the form prescribed by the Board.~~

~~(c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation.~~

~~(d) The Board may approve or deny an application for reinstatement, and in the case of a denial, the Board may also set a reasonable time period that must elapse before another application may be filed. The Board may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.~~

~~(e) A person seeking reinstatement of a license shall appear before the Board in person to answer any questions or address any concerns raised by his or her application if requested by a board member or the executive director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.~~

~~(f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:~~

~~(1) payment of the application fee;~~

~~(2) submission of a self-query report from the National Practitioner Data Bank (NPDB). The report must be submitted with the~~

application in the sealed envelope in which it was received from the NPDB;

(3) passage of the jurisprudence examination;

(4) a fingerprint based criminal history check which reflects no disqualifying criminal history; and

(5) submission of any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.

(g) An applicant seeking reinstatement of a license that has been retired or expired for five years or more or a license that has been revoked or resigned, must also demonstrate completion of at least forty hours of professional development within the twenty-four month period preceding the date of application. The professional development must meet the requirements of Board rule §461.11 of this title (relating to Professional Development).

(h) The Board will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:

(1) the circumstances surrounding the expiration, revocation, or resignation of the license;

(2) the conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;

(3) the lapse of time since the expiration, revocation, or resignation of the license;

(4) compliance with all terms and conditions imposed by the Board in any previous board order; and

(5) the applicant's present qualification to practice psychology based on his or her history of psychology-related employment, service, education, or training, as well as his or her professional development in psychology since the expiration, revocation, or resignation of the license.

(i) Notwithstanding time limits on original applications and examinations found elsewhere in Board rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass the jurisprudence examination within the 180-day time period specified by the Board. Failure to do so shall result in the

~~application for reinstatement expiring. The Board will send each applicant a letter specifying the 180 day time period upon receipt of a completed application for reinstatement and application fee.~~

Rule: 463.23. Criteria for Examination Consultants.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.23. Criteria for Examination Consultants. The Board may employ licensees to act as consultants for purposes of developing and administering the Jurisprudence Examination. All such consultants shall be considered as agents of the Board. To be eligible to serve as a consultant for an examination, an individual must:~~

~~(1) Be currently licensed by the Board and must have three years of experience in their area of expertise as a licensee;~~

~~(2) Not be related within the second degree of affinity (marriage) or consanguinity (blood relationship) to an individual who has applied to take the examination;~~

~~(3) Have no restrictions or pending complaints against his/her license; and~~

~~(4) Be approved by the Board.~~

Rule: 463.25. Foreign Graduates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.25. Foreign Graduates.~~

~~(a) Prior to submitting an application for licensure, the potential applicant shall provide the Board with documents and evidence to establish that his/her formal education is equivalent to a masters or doctoral degree, as required by the Psychologists' Licensing Act and Rules and Regulations of the Board, granted by a United States university that is regionally accredited. The registrar of the University of Texas at Austin must certify that, after reviewing the required documentation, the degree is equivalent to a masters or doctoral degree granted from a regionally accredited educational institution. The potential applicant shall provide the Board with the following:~~

~~(1) An original or certified copy of a diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained.~~

~~(2) A transcript or comparable document of all course work completed.~~

~~(3) A certified translation of all documents submitted in a language other than English.~~

~~(4) Satisfactory evidence of supervised experience.~~

~~(5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself.~~

~~(6) A statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.~~

(7) A check or money order made payable to the University of Texas at Austin to cover the cost of reviewing the required documentation. The fee for this service is set by the University of Texas at Austin.

(b) After receiving formal notification from the University of Texas at Austin that the potential applicant's formal education is equivalent to a masters or doctoral degree from a regionally accredited educational institution in the United States the Board will notify the potential applicant of the equivalency of his/her academic degree and will then accept a formal application for licensure.

Rule: 463.26. Health Service Provider in Psychology Specialty Certification.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.26. Health Service Provider in Psychology Specialty Certification.~~

~~(a) Health Service Provider (HSP) in Psychology is a specialty certification from the Board available to Texas licensed psychologists who are listed in the National Register of Health Service Providers. The National Register defines a health service provider as one who is trained and experienced in the delivery of direct, preventive, assessment, and therapeutic intervention services to individuals whose growth, adjustment, or functioning is impaired, or to individuals who otherwise seek services. This credential does not constitute a license to practice psychology under the Act. The Board will continue to recognize all individuals who were certified as HSP by the Board prior to January 1, 1998, and who remain in good standing.~~

~~(b) Requirements for this credential as of January 1, 1998, are:~~

~~(1) Current, active licensure by the Board as a psychologist; and~~

~~(2) Documentation submitted directly to the Board from the National Register of HSP in Psychology that the applicant is currently designated as an HSP with the National Register.~~

~~(3) Active status as an HSP in psychology requires annual renewal and payment of an annual renewal fee. After one year, if the licensee fails to renew this specialty certification, it is void. To obtain specialty certification again, reapplication is required.~~

Rule: 463.27. Temporary License for Persons Licensed in Other States.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.27. Temporary License for Persons Licensed in Other States.~~

~~(a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose, such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas. To be eligible for temporary licensure, an applicant must:~~

~~(1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;~~

~~(2) pay the application fee;~~

~~(3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;~~

~~(4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;~~

~~(5) be supervised (sponsorship) by a psychologist licensed in this state; and~~

~~(6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.~~

~~(b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Board. An applicant need not~~

~~demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Board has reciprocity.~~

~~(c) Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Board as compliance with and in lieu of subsection (a)(3) and (6) of this section.~~

~~(d) For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.~~

~~(e) Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.~~

~~(f) A temporary licensee must submit written notification to the Board of the dates he or she intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Board.~~

~~(g) Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Board rules.~~

~~(h) An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Board.~~

~~(i) A temporary license holder may not apply for another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.~~

~~(j) A temporary license holder delivering psychological services while situated in this state, must display a copy of his or her temporary license, unless otherwise prohibited or it would be impractical to do so.~~

Rule: 463.28. Emergency Limited Temporary License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.28. Emergency Limited Temporary License.~~

~~(a) The Board may issue an emergency limited temporary license to practice psychology if:~~

~~(1) the Governor declares a disaster under §418.014 of the Government Code and issues a proclamation in accordance with §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

~~(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and~~

~~(3) the applicant meets the requirements set forth herein below.~~

~~(b) An emergency limited temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.~~

~~(c) An emergency limited temporary license issued pursuant to this rule is valid only for the practice of psychology within the disaster area designated by the governor.~~

~~(d) To be eligible for an emergency limited temporary license to practice psychology, an applicant must:~~

~~(1) submit an application on a board-approved form;~~

~~(2) submit written verification that the applicant is actively licensed, certified, or registered as a psychologist, psychological associate, or specialist in school psychology and in good standing in another jurisdiction.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on your out-of-state psychology license(s).~~

~~(f) An emergency limited temporary license may be renewed for an additional thirty (30) day period if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.~~

~~(g) An individual practicing under an emergency limited temporary license must:~~

~~(1) display a copy of his or her emergency limited temporary license in a conspicuous location when delivering psychological services, or provide written notification of the license number and instructions on how to verify the status of a license when obtaining informed consent;~~

~~(2) provide notification to the public in a manner consistent with Board rule §469.2 of this title (relating to Public Complaint Notification Statement), that complaints can be filed with the Board; and~~

~~(3) comply with all other applicable board rules.~~

~~(h) There will be no fee associated with the application, issuance, or renewal of an emergency limited temporary license.~~

Rule: 463.29. Reciprocity Agreements with Other Jurisdictions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.29. Reciprocity Agreements with Other Jurisdictions. The Board may enter into reciprocal licensing agreements with other jurisdictions pursuant to §501.262 of the Psychologists' Licensing Act (the Act). In determining whether the requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the Act, for the granting of licensure by reciprocity, the Board will consider the following:~~

~~(1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;~~

~~(2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;~~

~~(3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and~~

~~(4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.~~

Rule: 463.30. Licensing for Military Service Members, Veterans and Spouses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.30. Licensing for Military Service Members, Veterans and Spouses.~~

~~(a) Military Service Members, Veterans and Spouses.~~

~~(1) A license may be issued to a military service member, military veteran, or military spouse, as those terms are defined by Chapter 55, Occupations Code, provided that the following documentation is provided to the Board:~~

~~(A) if the applicant is a military spouse, proof of marriage to a military service member; and~~

~~(B) proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or~~

~~(C) proof that within the five years preceding the application date, the spouse held the license in Texas.~~

~~(2) An applicant applying for licensure under paragraph (1) of this subsection must provide documentation from all other jurisdictions in which the applicant is licensed that indicate that the applicant has received no disciplinary action from those jurisdictions regarding a mental health license.~~

~~(3) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license under this rule, other than paragraph (1)(B) and (C) of this subsection and the jurisprudence examination, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the Board's Applications Committee and consider the committee's~~

input and recommendations. In the event the Executive Director does not follow a recommendation of the Applications Committee, he or she must submit a written explanation to the Applications Committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has an unacceptable criminal history.

(4) Alternative demonstrations of competency to meet the requirements for licensure. The following provisions provide alternative demonstrations of competency to the Board's licensing standards.

(A) Licensed Specialist in School Psychology. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and evidence of the required coursework or National Association of School Psychologists certification, and passage of the National School Psychology Examination. All other requirements for licensure are still required.

(B) Licensed Psychological Associate. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, 450 internship hours, and passage of the Examination for Professional Practice in Psychology (EPPP) at the Texas cut-off. All other requirements for licensure are still required.

(C) Provisionally Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and passage of the EPPP at the Texas cut-off. All other requirements for licensure are still required.

(D) Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: two years of supervised experience. All other requirements for licensure, including the requirements of this paragraph, are still required.

(5) Determination of substantial equivalency for licensing requirements in another state. The applicant must provide to the Board proof that the state in which the applicant is licensed has standards for licensure that are substantially equivalent to the requirements of this Board for the applicable license type:

(A) Licensed Specialist in School Psychology.

(i) The completion of a training program in school psychology approved/accredited by the American Psychological Association or the National Association of School Psychologists or a master's degree in psychology with specific course work as set forth in Board rule §463.9 of this title (relating to Licensed Specialist in School Psychology); and

(ii) Passage of the National School Psychology Examination.

(B) Licensed Psychological Associate.

(i) Graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;

(ii) Passage of the EPPP at the Texas cut-off score; and

(iii) A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.

(C) Provisionally Licensed Psychologist.

(i) Doctoral degree in psychology; and

(ii) Passage of the EPPP at the Texas cut-off score.

(D) Licensed Psychologist.

(i) Doctoral degree in psychology;

(ii) Passage of the EPPP at the Texas cut-off score; and

(iii) Two years or a minimum of 3,000 hours of supervised experience under a licensed psychologist.

(6) Renewal of License Issued to Military Service Members, Veterans, and Spouses. A license issued pursuant to this rule shall remain active until the last day of the licensee's birth month following a period of one year from the date of issuance of the license, at which time it will be subject to all renewal requirements.

(b) Applicants with Military Experience.

(1) A military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:

(A) Licensed Specialist in School Psychology. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: a practicum and 600 internship hours. All other requirements for licensure are still required.

(B) Licensed Psychological Associate. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: 1,750 hours of supervised experience. All other requirements for licensure are still required.

(C) Licensed Psychologist. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or a minimum of 1,750 hours of supervised experience. All other requirements for licensure are still required.

(2) A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another

~~jurisdiction that has been restricted, or they have an unacceptable criminal history.~~

Rule: 463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.~~

~~(a) An individual who holds a mental health license, other than one issued by this Board, may not obtain the required practicum, internship, or supervised experience required for a license with this Board while practicing under that license. During the documented hours of the practicum, internship, or supervised experience, the individual may provide psychological services only under the authority of a qualified supervisor of the practicum, internship, or supervised experience.~~

~~(b) An individual subject to subsection (a) must comply with the Psychologists' Licensing Act and all applicable Board rules regarding the use of appropriate titles.~~

Rule: 465.1. Definitions

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.1. Definitions. The following terms have the following meanings:~~

~~(1) "Adoption evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.151.~~

~~(2) "Child custody evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.101.~~

~~(3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.~~

~~(4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.~~

~~(5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.~~

~~(6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, licensee concerning a current or potential legal case at the entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal~~

proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).

(7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.

(8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants to the Board, and any other individual whom the Board has the authority to discipline under these Rules.

(9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.

(10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.

(11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.

(12) "Professional standards" are determined by the Board through its rules, regulations, policies and any other sources adopted by the Board.

(13) "Provision of psychological services" means any use by a licensee of his or her education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, performing research, or teaching to an individual, group, or organization.

(14) "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.

(15) "Recognized member of the clergy," as used in §501.004(a)(4) of the Act, means a member in good standing of and accountable to a denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, §501(c)(3).

(16) "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.

(17) "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.

(18) "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.

~~(19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.~~

~~(20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.~~

Rule: 465.2. Supervision

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.2. Supervision~~

~~(a) Psychologists shall employ or utilize an individual to provide psychological services, in any setting not specifically exempt under §501.004(a)(1) of the Psychologists' Licensing Act (the Act), only if:~~

~~(1) The individual is licensed by this Board; or~~

~~(2) The individual is specifically exempted from licensure requirements by §501.004(a)(2) of the Act, relating to provision of services as part of a supervised course of study by students, residents or interns pursuing a course of study in a recognized training institution or facility; or,~~

~~(3) The individual is engaged in post-doctoral supervision for purposes of satisfying §501.252(b)(2) of the Act; or~~

~~(4) The individual is completing supervised experience for purposes of satisfying §501.260(b)(3) of the Act, relating to Licensed Specialist in School Psychology; or~~

~~(5) The individual is completing supervised experience for purposes of satisfying the requirements to become a licensed professional listed in §501.004(b) of the Act.~~

~~(b) Licensees who contract either individually or with a third-party contract provider to provide psychological services in settings where the Act does not apply pursuant to §501.004 of the Act ("exempt" settings) are not themselves exempt from the Act. In some cases, a licensee may have to follow state or federal guidelines or laws that conflict with Board rules. In those cases, the conflicting guidelines or laws supersede Board rules.~~

Rule: 465.3. Providers of Psychological Services.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.3. Providers of Psychological Services.~~

~~(a) Individuals Licensed in Another Profession. Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a Board licensee may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.~~

~~(b) Unlicensed, Non-Exempt Individuals. Psychologists may employ unlicensed, non-exempt individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:~~

~~(1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;~~

~~(2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and~~

~~(3) Technical, educational, or other duties that are adjunctive to and incorporated into the provision of psychological services such as providing educational information or assisting a client's work with a computer, special equipment or special materials, provided that the duties do not require psychological education or involve the provision of psychological services or the services or activities of another licensed profession.~~

Rule: 465.4. Employment of Individuals Not Licensed With This Board.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.4. Employment of Individuals Not Licensed With This Board.~~

~~(a) Multiple Licensure.~~

~~(1) Multiple licenses regulated by the Board are treated as one for purposes of Board discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all Board-issued licenses held by a licensee.~~

~~(2) Multiple licenses including those governed by other entities. Licensees offering services outside the practice of psychology must avoid confusing or misleading clients by clearly identifying the license(s) under which services are being delivered. If a licensee holds more than one active license under which the licensee provides such services as counseling and psychotherapy in addition to psychological services, the licensee must obtain documented informed consent showing that the patient understands which license governs which services delivered to the patient at all times.~~

~~(b) Practice of Psychology. The following activities are covered by the definition of the "provision of psychological services" in Board Rule §465.1(10). This list is not intended to be exhaustive, but includes examples of the activities that, when performed by a licensee, are subject to Board Rules:~~

~~(1) conducting or administering testing that requires the use of psychological education, training, knowledge, or skills;~~

~~(2) the provision of biofeedback when such provision involves the use of education, training, skills, or knowledge in psychology;~~

~~(3) projective techniques, including, but not limited to, Rorschach, Thematic Apperception Test, Roberts Apperception Test, Sentence Completion tests and Holtzman Ink Blot;~~

~~(4) career and vocational counseling;~~

~~(5) the practice of hypnosis and hypnotherapy for health care purposes;~~

~~(6) marriage and family counseling and therapy; and~~

~~(7) alcohol and substance abuse treatment.~~

Rule: 465.5. Rules of Practice.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.5. Rules of Practice.~~

~~(a) Public Statements and Advertisements. Licensees shall not authorize, use or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or because of what they omit concerning their own training, experience, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.~~

~~(b) Solicitation of Testimonials and/or Patients.~~

~~(1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.~~

~~(2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.~~

~~(c) Use of Titles.~~

~~(1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.~~

~~(2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.~~

~~(3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:~~

~~(A) the individual holds a doctorate in the area of specialization;~~

(B) the individual has undergone retraining under the American Psychological Association retraining guidelines of 1977 in the area of specialization;

(C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;

(D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and relevant applied experience, as well as proof that the title has been used for at least five years; or

(E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.

(d) Assumed Names and Legal Entities. Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.

Rule: 465.6. Public Statements, Advertisements, and Specialty Titles

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.6. Public Statements, Advertisements, and Specialty Titles. Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.~~

Rule: 465.7. Display of License/Renewal Permit

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.7. Display of License/Renewal Permit. Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.~~

Rule: 465.8. Psychological Services Are Provided within a Defined Relationship

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.8. Psychological Services Are Provided with a Defined Relationship. Licensees provide psychological services only in the context of a defined professional relationship.~~

Rule: 465.9. Competency

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.9. Competency~~

~~(a) Licensees provide only services for which they have the education, skills, and training to perform competently.~~

~~(b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.~~

~~(c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.~~

~~(d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.~~

~~(e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.~~

~~(f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.~~

~~(g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.~~

~~(h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to a competent appropriate service provider.~~

~~(i) Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services only to the extent necessary to ensure that services are not denied. If ongoing services are provided, licensees must comply with subsection (d) of this section as soon as practicable or refer the patient as per subsection (h) of this section.~~

~~(j) Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with Board rule §465.21 of this title (relating to Termination of Services).~~

Rule: 465.10 Basis for Scientific and Professional Judgments

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.10. Basis for Scientific and Professional Judgments. Licensees rely on scientifically and professionally derived knowledge when making professional judgments.~~

Rule: 465.11 Informed Consent

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.11. Informed Consent.~~

~~(a) Except in an inpatient setting where a general consent has been signed, licensees must obtain and document in writing informed consent concerning all services they intend to provide to the patient, client or other recipient(s) of the psychological services prior to initiating the services, using language that is reasonably understandable to the recipients unless consent is precluded by applicable federal or state law.~~

~~(b) Licensees provide appropriate information as needed during the course of the services about changes in the nature of the services to the patient client or other recipient(s) of the services using language that is reasonably understandable to the recipient to ensure informed consent.~~

~~(c) Licensees provide appropriate information as needed, during the course of the services to the patient client and other recipient(s) and afterward if requested, to explain the results and conclusions reached concerning the services using language that is reasonably understandable to the recipient(s).~~

~~(d) When a licensee agrees to provide services to a person, group or organization at the request of a third party, the licensee clarifies to all of the parties the nature of the relationship between the licensee and each party at the outset of the service and at any time during the services that the circumstances change. This clarification includes the role of the licensee with each party, the probable uses of the services and the results of the services, and all potential limits to the confidentiality between the recipient(s) of the services and the licensee.~~

~~(e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality,~~

~~expectations of each participant, and the access of each participant to records generated in the course of the services.~~

~~(f) At any time that a licensee knows or should know that he or she may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Board rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in Board rule §465.9(i) of this title (relating to Competency) that will prevent them from performing their work-related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and/or referral to insure that the services are completed in a timely manner.~~

~~(g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.~~

~~(h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that he or she intends to provide to the patient, client, or other recipient(s) of the psychological services prior to initiating the services using language that is reasonably understandable to the recipient(s).~~

Rule: 465.12 Privacy and Confidentiality

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.12. Privacy and Confidentiality.~~

~~(a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.~~

~~(b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process described in Board rule §465.11 of this title (relating to Informed Consent/Describing Psychological Services).~~

~~(c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.~~

~~(d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient/client confidentiality.~~

~~(e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.~~

~~(f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity and/or records, must remove all identifying and confidential information relating to the second individual before releasing the records.~~

~~(g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licenses shall exclude information that could lead to the identification of the patient or client.~~

~~(h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.~~

~~(i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.~~

Rule: 465.13 Personal Problems, Conflicts, and Dual Relationships.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.13. Personal Problems, Conflicts, and Dual Relationships~~

~~(a) In General.~~

~~(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.~~

~~(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.~~

~~(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.~~

~~(4) Licensees refrain from entering into or must withdraw from any professional relationship that conflicts with their ability to comply with all Board rules applicable to other existing professional relationships.~~

~~(b) Dual Relationships.~~

~~(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.~~

~~(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other~~

~~relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.~~

~~(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.~~

~~(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.~~

~~(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.~~

Rule: 465.14 Misuse of Licensees Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.14. Misuse of Licensees Services~~

~~(a) Licensees decline to offer services when limitations or conditions are placed on their work by the patient, client, or third parties which could foreseeably cause the licensee to violate a Board rule.~~

~~(b) If licensees become aware of misuse or misrepresentation of their services or the results of their services, they take reasonable steps to correct or minimize the misuse or misrepresentation.~~

Rule: 465.15 Fees and Financial Arrangements

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.15. Fees and Financial Arrangements.~~

~~(a) General Requirements.~~

~~(1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.~~

~~(2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.~~

~~(3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.~~

~~(4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.~~

~~(b) Ethical and Legal Requirements.~~

~~(1) Licensees do not engage in fraudulent billing.~~

~~(2) Licensees do not misrepresent their fees.~~

~~(3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.~~

~~(4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.~~

~~(5) A licensee does not participate in bartering if it is clinically contra-indicated or if bartering has the potential to create an exploitative or harmful dual relationship.~~

Rule: 465.16. Evaluation, Assessment, Testing, and Reports

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.16. Evaluation, Assessment, Testing, and Reports.~~

~~(a) Scope and Purpose.~~

~~(1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.~~

~~(2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.~~

~~(b) Reliability and Validity.~~

~~(1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.~~

~~(2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.~~

~~(3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.~~

~~(4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.~~

~~(5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.~~

~~(c) Limitations.~~

~~(1) Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.~~

~~(2) Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.~~

~~(3) Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.~~

~~(4) Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.~~

~~(5) Licensees provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.~~

~~(6) Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.~~

~~(d) Test Security and Validity. Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test~~

Rule: 465.17. Therapy and Counseling

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.17. Therapy and Counseling.~~

~~(a) Imbalances of Power.~~

~~(1) Licensees who engage in therapy or counseling recognize the actual or perceived power or undue influence they hold over current and former patients and clients.~~

~~(2) Licensees are presumed to have power and influence over former therapy or counseling patients or clients.~~

~~(3) Licensees do not engage in sexual relationships with, employ, enter into business with or otherwise exploit any former patient or client over whom they have actual or perceived power or undue influence created through a therapeutic relationship.~~

~~(b) Treatment plans.~~

~~(1) Licensees create specific written treatment plans that include, at a minimum, agreed upon goals of the treatment, the techniques to be used, and the tentative duration of the treatment for any therapy or counseling that they provide.~~

~~(2) Licensees explain the treatment plan to all recipients of the therapy or counseling before commencing the services.~~

~~(3) Licensees alter and document the alteration in the treatment plan when clinically indicated.~~

~~(4) Licensees confer with and obtain consent from the patient, or client or other recipient(s) of services concerning significant alterations in the treatment plan in accordance with Board rule §465.11(b) of~~

~~this title (relating to Informed Consent/Describing Psychological Services).~~

Rule: 465.18. Forensic Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.18. Forensic Services.~~

~~(a) In General.~~

~~(1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Board rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.~~

~~(2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.~~

~~(3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.~~

~~(4) A licensee who provides forensic services must comply with all other applicable Board rules and state and federal law relating to the underlying areas of psychology relating to those services.~~

~~(5) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.~~

~~(6) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.~~

(b) Limitation on Services.

(1) A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and competency to render a professional opinion shall decline to render that opinion.

(2) A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.

(3) A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.

(4) A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.

(5) When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.

(c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:

(1) The nature of the anticipated services (procedures);

(2) The specific purpose and scope of the evaluation;

(3) The identity of the party who requested the psychologist's services;

(4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;

(5) The type of information sought and the uses for information gathered;

(6) The people or entities to whom psychological records will be distributed;

(7) The approximate length of time required to produce any reports or written results;

(8) Applicable limits on confidentiality and access to psychological records;

(9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and

(10) The licensee's name as it appears in their professional file with the Board prior to initiating services.

(d) Certain Testimony Prohibited.

(1) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.

(2) In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.

(3) This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.

(e) Child Custody Evaluations.

(1) The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.

(2) The term "supervision" as used in this subsection shall have the meaning assigned by Tex. Fam. Code Ann. §107.101. However, the term shall not encompass the restrictions and requirements set forth in Board rule §465.2 of this title (relating to Supervision) nor

shall a licensee providing supervision under this subsection have supervisory responsibility under Board rule §465.2 of this title.

(3) Minimum Qualifications of Child Custody Evaluator.

(A) A licensee must be qualified to conduct a child custody evaluation pursuant to Tex. Fam. Code Ann. §107.104 before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under Tex. Fam. Code Ann. §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.

(B) Notwithstanding any other grounds for qualification, the Board has determined that a licensed psychologist is qualified to conduct child custody evaluations if the licensee:

(i) has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or

(ii) has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.

(C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.104, may nevertheless conduct a child custody evaluation if:

(i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.106. A licensee appointed under Tex. Fam. Code Ann. §107.106 must comply with the provisions of Subchapter D of the Texas Family Code and this rule;

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015; or

(iii) the licensee was qualified to conduct a social study evaluation under former Tex. Fam. Code Ann. §107.0511(g). This subpart shall expire on August 31, 2017, at which time it shall have no further force and effect.

(D) If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

(E) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

(4) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.107.

(B) Following any disclosure required by Tex. Fam. Code Ann. §107.107(c), a licensee must resign as child custody evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.

(C) Except as authorized by Tex. Fam. Code Ann. §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.

(5) Elements of Child Custody Evaluation.

(A) Licensees shall comply with Tex. Fam. Code Ann. §§107.108, 107.109, and 107.1101 when conducting child custody evaluations.

(B) Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with Tex. Fam. Code Ann. §107.110.

(6) Communications and Recordkeeping of Child Custody Evaluator.

(A) Licensees shall comply with the requirements of Tex. Fam. Code Ann. §107.112 regarding:

(i) the disclosure of communications between evaluation participants;

(ii) the creation and retention of records relevant to the evaluation; and

(iii) access to evaluation records.

(B) Licensees conducting child custody evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.111, as well as any records obtained pursuant to Tex. Fam. Code Ann. §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.

(7) Evaluation Report.

(A) A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with Tex. Fam. Code Ann. §107.113.

(B) A licensee shall provide a copy of any report filed with the Court in accordance with Tex. Fam. Code Ann. §107.114.

(f) Adoption Evaluations.

(1) The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective. Licensees

~~conducting adoption evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.~~

~~(2) Minimum Qualifications of Adoption Evaluator.~~

~~(A) A licensee must be qualified to conduct an adoption evaluation pursuant to Tex. Fam. Code Ann. §107.154 before the licensee may conduct an evaluation.~~

~~(B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.~~

~~(C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.154, may nevertheless conduct an adoption evaluation if:~~

~~(i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.155. A licensee appointed under Tex. Fam. Code Ann. §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or~~

~~(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.~~

~~(3) Disclosure of Conflicts and Bias.~~

~~(A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.156.~~

~~(B) Following any disclosure required by Tex. Fam. Code Ann. §107.156(c), a licensee must resign as adoption evaluator, unless:~~

~~(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or~~

~~(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator~~

(C) Except as authorized by Tex. Fam. Code Ann. §107.156(e), licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.

(4) A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.

(5) Licensees shall comply with Tex. Fam. Code Ann. §§107.158, 107.159, and 107.160 when conducting adoption evaluations.

(6) Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.163. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by Tex. Fam. Code Ann. §107.163 will result in disciplinary action against a licensee.

(g) Duty to Report Complaints. Licensees must report any complaint filed against them with this Board that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Board. Only those complaints for which a licensee receives notice from the Board need to be reported.

(h) Parenting Facilitators.

(1) The title "parenting facilitator" is defined in the Texas Family Code, Title 5, Subtitle B, Chapter 153, Subchapter K, Parenting Plan, Parenting Coordinator, and Parenting Facilitator.

(2) The Board's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Board rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators. In the event of conflict between the Family Code and Board rules, the Family Code controls,

pursuant to Board rule §461.14 of this title (relating to Conflict between Laws and Board Rules).

(3) A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all other applicable Board rules and state and federal laws relating to the underlying areas of psychology relating to those services.

(4) Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.

(5) Parenting facilitators must comply with the Texas Family Code at §153.6061 as to duties and §153.6101 as to qualifications, and with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005.

(6) The following psychologist-parenting facilitator practice standards are set forth consistent with Texas Family Code §153.6101.

(A) Parenting facilitators licensed by the Board shall comply with the standard of care applicable to the license to practice psychology in Texas.

(B) Psychologist-parenting facilitators meet all requirements of Texas Family Code §153.6101, including active licensure to practice as a psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

Rule: 465.20. Research

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.20. Research.~~

~~(a) Conducting Research.~~

~~(1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.~~

~~(2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.~~

~~(b) Research results.~~

~~(1) Psychologists do not fabricate data or falsify results in their publications.~~

~~(2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.~~

~~(3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.~~

~~(4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.~~

Rule: 465.21. Termination of Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.21. Termination of Services.~~

~~(a) Licensees do not abandon patients or clients.~~

~~(b) Withdrawal from a professional relationship in compliance with Board rules to avoid a prohibited dual relationship is not abandonment of a patient or client.~~

~~(c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.~~

~~(d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.~~

~~(e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.~~

~~(f) Termination of employment with agencies or organizations.~~

~~(1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.~~

~~(2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Board rules and applicable law.~~

(3) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.

(g) Termination of employment with public schools.

(1) A Licensed Specialist in School Psychology (LSSP) who is under contract as an employee of a public school to provide school psychological services must deliver to such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.

(2) A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.

Rule: 465.22. Psychological Records, Test Data and Test Materials

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.22. Psychological Records, Test Data and Test Materials.~~

~~(a) General Requirements.~~

~~(1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.~~

~~(2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.~~

~~(3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.~~

~~(4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.~~

~~(5) Records shall be maintained and stored in a way that permits review and duplication.~~

~~(6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.~~

~~(7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.~~

~~(b) Maintenance and Control of Records.~~

(1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.

(2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.

(3) Licensees shall make all reasonable efforts to protect against the misuse of any record.

(4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.

(5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.

(6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.

(c) Access to Records.

(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.

(2) Records may be maintained in any media that ensure confidentiality and durability.

(3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.

(4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.

(5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are

~~commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.~~

~~(6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Board rule and state and federal law.~~

~~(7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Board rules and state and federal law.~~

~~(8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.~~

~~(9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:~~

~~(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or~~

~~(B) inform the patient in writing that the information does not exist or cannot be found; or~~

~~(C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.~~

~~(10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45~~

~~C.F.R. §164.501, maintained by the licensee concerning the patient.~~

~~(d) Retention of Records.~~

~~(1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.~~

~~(2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after termination of services with the patient, client or subject of evaluation, or three years after a patient or subject of evaluation reaches the age of majority, whichever is greater.~~

~~(3) All records shall be maintained in a manner which permits timely retrieval and production.~~

~~(e) Outdated Records.~~

~~(1) Licensees take reasonable steps when disclosing records to note information that is outdated.~~

~~(2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Board rules and state and federal laws.~~

Rule: 465.32. Disposition and Assumption of the Practice of a Mental Health Professional

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations

~~465.32. Disposition and Assumption of the Practice of a Mental Health Professional.~~

~~(a) In General.~~

~~(1) A licensee has the right to sell or otherwise dispose of his or her practice to another licensed psychologist.~~

~~(2) A licensee has the right to assume the practice of a licensee.~~

~~(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.~~

~~(b) Notice and Referral of Patients and Clients.~~

~~(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the referent unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.~~

~~(2) A licensee who assumes the practice of another mental health service provider may state his or her willingness to provide services to all patients or clients the licensee is competent to treat.~~

~~(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.~~

~~(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional~~

Rule: 465.33. Improper Sexual Conduct.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.33. Improper Sexual Conduct.~~

~~(a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.~~

~~(b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:~~

~~(1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;~~

~~(2) Making inappropriate comments about an individual's body;~~

~~(3) Making sexually demeaning comments to an individual;~~

~~(4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;~~

~~(5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;~~

~~(6) Requesting a date;~~

~~(7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or~~

(8) Kissing of a sexual nature.

(c) A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:

(1) Sexual intercourse;

(2) Genital contact;

(3) Oral to genital contact;

(4) Genital to anal contact;

(5) Oral to anal contact;

(6) Touching breasts or genitals;

(7) Encouraging another to masturbate in one's presence;

(8) Masturbation in another's presence; or

(9) Exposure of sexual organs, breasts or buttocks.

(d) A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:

(1) The length of the relationship;

(2) The nature of the relationship; and

(3) The frequency and type of interaction between the persons involved in the relationship.

(e) A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or

~~siblings of former patients for at least two years after termination of services.~~

~~(f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.~~

~~(g) Psychologists do not accept as clients individuals with whom they have engaged in sexual relationships.~~

Rule: 465.34. Providing Mental Health Services to Those Served by Others

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive

Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.34. Providing Mental Health Services to Those Served by Others. Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensee shall consult with the other service providers after appropriate consent has been obtained.~~

Rule: 465.34. Resolution of Allegations of Board Rule Violations

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.34. Resolution of Allegations of Board Rule Violations.~~

~~(a) When a licensee believes that there may have been an ethical or Board rule violation by another licensee that does not involve harm or potential harm to any member of the public, the licensee may attempt to resolve the issue by bringing it to the attention of that individual if informal resolution would not violate any confidentiality rights that may be involved. Licensees shall report any unresolved rule violations to the Board.~~

~~(b) A licensee must report conduct by a licensee that appears to involve harm or the potential for harm to any individual, or a violation of Board rule, a state law or federal law.~~

~~(c) A licensee must cooperate with any investigation conducted by the Board, including providing all requested information to the Board's Enforcement Division for thorough investigation of the complaint. Disclosure of patient information in an investigation is authorized by §611.006(a)(1) and (2) of the Texas Health and Safety Code.~~

Rule: 465.37. Compliance with All Applicable Laws

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.37. Compliance with All Applicable Laws. Licensees comply with all applicable state and federal laws affecting the practice of psychology including, but not limited to~~:

~~(1) Texas Health and Safety Code, Chapter 611, Mental Health Record;~~

~~(2) Texas Family Code~~

~~(A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,~~

~~(B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and~~

~~(C) Chapter 261, Duty to Report Child Abuse and Neglect;~~

~~(3) Texas Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;~~

(4) Texas Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;

(5) Texas Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;

(6) Texas Code of Criminal Procedure, Chapter 46B. Incompetency to Stand Trial, Art. 46B.025. Expert's Report and Art. 46B.026. Report Deadline; and Chapter 46C. Insanity Defense, Art 46C.105. Reports Submitted by Experts; and

(7) 18 United States Code §1347 Health Care Fraud.

Rule: 465.38. Psychological Services for Schools

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

465.38. Psychological Services for Schools.

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Board recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) A Licensed Specialist in School Psychology (LSSP) means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and

behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Board rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

(d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology or LSSP. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Board to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs;

(B) Those individuals listed in Board rule §463.9(g) of this title (relating to Licensed Specialist in School Psychologists); and

(C) Individuals seeking to fulfill the licensing requirements of Board rule §463.8 of this title (relating to Licensed Psychological Associate), Board rule §463.10 of this title (relating to Provisionally Licensed Psychologists), or Board rule § 463.11 of this title (relating to Licensed Psychologist).

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this rule.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) above.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

(1) Texas Education Code;

(2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;

(3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;

(4) Texas Public Information Act ("Open Records Act"), Texas Government Code, Chapter 552;

(5) Section 504 of the Rehabilitation Act of 1973;

(6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and

(7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when

~~delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Board rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) or in a private school however, must obtain informed consent as otherwise required by the Board rules~~

Rule: 469.1. Timeliness of Complaints.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.1. Timeliness of Complaints.~~

~~(a) A complaint not involving a violation of Board rules §465.33 of this title (relating to Improper Sexual Conduct) or §465.22(d) of this title (relating to Psychological Records, Test Data and Test Protocols), will be considered timely if brought within five years of the date of the termination of professional services.~~

~~(b) A complaint alleging a violation of Board rules §465.33 of this title or 465.22(d) of this title, will be considered timely if brought within seven years after termination of services or within three years of the patient, a client or subject of evaluation reaching the age of majority, whichever is greater.~~

~~(c) A complaint arising out of disciplinary action taken against a licensee by any entity listed in Board rule 469.11(a)(4) of this title (relating to Legal Actions Reported and Reciprocal Discipline), will be considered timely if brought within five years of the date the disciplinary action is reported to the Board.~~

~~(d) Limitations shall not begin to run for any complaint arising out of a matter required to be reported under Board rule 469.11 of this title, until the matter is reported in accordance with that rule.~~

Rule: 469.2. Public Complaint Notification Statement.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.2. Public Complaint Notification Statement.~~

~~(a) Methods of Notification. The Board and its licensees shall provide notification to the public that complaints can be filed with the Board by publishing the Board's name, its mailing address, and telephone number by the following method:~~

~~(1) Displaying a sign in a prominent location on a wall in all rooms where psychological services are conducted in a position that is reasonably likely to be viewed by individuals occupying the room, on paper of no less than 8-1/2 inches by 11 inches in size, with the Board-approved notification statement printed in black. Licensees providing psychological services through the internet shall display an image of the notification statement in a prominent and easily accessible location within the website. The Board approved notification statement must be printed in both English and Spanish.~~

~~(A) The Board-approved English notification statement reads as follows: "Be it known that the Texas State Board of Examiners of Psychologists receives questions and complaints regarding the practice of psychology. For assistance please contact: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700, or 800-821-3205."~~

~~(B) The Board-approved Spanish notification statement reads as follows: "Se desea informar que la Comisión Estatal Examinadora de Psicólogos de Texas recibe toda clase de consultas y quejas sobre el ejercicio profesional de la psicología en el Estado de Texas. Si usted necesita este servicio, comuníquese con: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 o 800-821-3205."~~

~~(2) The Board-approved notification statement is provided to licensees at the time of licensure. Additional Board-approved notification statements may be obtained directly from the Board office at any time.~~

~~(b) In addition to the Board-approved notification sign, licensees may also notify consumers by the following methods:~~

~~(1) on each registration form, application, or written contract for services of a licensee; or~~

~~(2) in a bill for services provided by a licensee.~~

Rule: 469.3. Standardized Complaint Form.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.3. Standardized Complaint Form.~~

~~(a) All complaints filed against a licensee must be submitted to the Board on the Board-approved standardized complaint form. The Board-approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's web site.~~

~~(b) The Board shall make available to each person who wishes to file a complaint: the Board-approved complaint form, waiver form if appropriate, release of information forms, and the Rules and Regulations of the Board.~~

~~(c) The complaint form must be physically delivered to the Board office, mailed to the Board office, or faxed to the Board.~~

Rule: 469.4. Complaint Investigation.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.4. Complaint Investigation.~~

~~(a) The Board has established a priority rating system to distinguish between categories of complaints. The priority rating system is as follows:~~

~~(1) cases involving imminent physical harm to the public;~~

~~(2) cases involving sexual misconduct on the part of a licensee;~~

~~(3) cases involving current applicants for licensure; and~~

~~(4) cases involving other administrative violations of Board Rules or the Act.~~

~~(b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.~~

~~(c) A preliminary investigation shall be conducted to determine if the Board has jurisdiction over the complaint and to determine the nature of the allegations. The complainant will be provided the opportunity to explain the allegations made in the complaint.~~

~~(d) A review will be conducted after the preliminary investigation to determine if the complaint states an allegation which, if true, would constitute a violation of the Board's Act and rules.~~

~~(e) Complaints that do not state a violation of the Board's Act or rules shall be dismissed. If the complaint alleges a violation of another agency's Act or~~

~~rules, the complaint will be referred to the appropriate agency as required or allowed by law.~~

~~(f) Complaints that state a violation of the Board's Act and rules shall be investigated by an investigator assigned by the Manager of the Enforcement Division.~~

~~(g) Licensees will receive notice in writing and addressed to the party. Notice to a licensee is effective and service is complete when sent by certified or registered mail, return receipt requested, to the licensee's address of record at the time of the mailing.~~

~~(h) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation of the Board's Act and rules has occurred.~~

~~(i) The Enforcement Division Manager and the counsel for the Board shall review the investigation report, evidence and the case file of the complaint to determine if there is sufficient evidence to demonstrate a violation of the Board's Act, rules, or order to recommend probable cause to the Board.~~

~~(j) A complaint for which the staff determines probable cause shall be referred to a Disciplinary Review Panel of the Board for an informal conference. The Board shall serve the Respondent with a Notice of Violation and Informal Settlement Conference.~~

~~(k) A complaint for which the staff determines that probable cause does not exist shall be referred for dismissal.~~

~~(l) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.~~

Rule: 469.5. Complaint Disposition.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.5. Complaint Disposition.~~

~~(a) The Board will enter orders accepting resignations or assessing sanctions and dismiss complaints at regularly scheduled meetings.~~

~~(b) Notwithstanding subsection (a) of this section, the Executive Director may dismiss a complaint if the Executive Director, General Counsel, and Enforcement Manager agree that a violation did not occur or that the agency lacks jurisdiction over the complaint. However, the Executive Director may not dismiss a complaint if it has been reviewed by a Disciplinary Review Panel or the agency would be barred under Board rule §469.1 of this title (relating to Timeliness of Complaints) from reopening the complaint at the Board's next public meeting. At each public meeting of the Board, the Executive Director shall report to the Board each complaint dismissed since the Board's last public meeting, and the Board may then vote to reopen a complaint if it disagrees with the dismissal.~~

~~(c) Any person who files a complaint will be notified by letter of the dismissal of the complaint and the legal basis or reason for the dismissal.~~

~~(d) Notwithstanding subsection (a) of this section, the Executive Director is authorized to accept the voluntary resignation in lieu of adjudication of a license. Board ratification is not required. The Executive Director shall report the number of such resignations accepted, along with a brief summary of the basis for those resignations to the Board at its regular meetings.~~

Rule: 469.6. Temporary Suspension of a License.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.6. Temporary Suspension of a License.~~

~~(a) An executive committee of the Board, consisting of the Board Chair and two other Board members selected by the Board Chair, may temporarily suspend the license of a licensee under the Act without notice or hearing if the executive committee determines, based on evidence or information presented to the committee, that the continued practice by the licensee constitutes a continuing or imminent threat to the public welfare.~~

~~(b) A temporary suspension under subsection (a) of this section may also be ordered on a majority vote of the Board at a scheduled Board meeting.~~

~~(c) The effective date of the suspension will be either the date the executive committee votes to suspend the license, or the date that a majority of the Board votes to suspend the license.~~

~~(d) If a license is temporarily suspended under subsection (a) of this section without notice or hearing, a hearing to determine whether or not disciplinary proceedings under this Act should be initiated against the licensee must be scheduled to be held before the executive committee not later than the 14th day after the effective date of suspension. Following this hearing, if a determination is made that no disciplinary proceedings should be initiated, any temporary suspension ordered shall be immediately terminated.~~

~~(e) In the alternative, a license may be temporarily suspended by an executive committee following notice to the licensee and a hearing before the executive committee. An additional hearing within 14 days of the effective date of a temporary suspension entered pursuant to this subsection shall not be required, if the executive committee votes to temporarily suspend a license and determines that disciplinary proceedings under this Act should be initiated against the licensee.~~

~~(f) Upon the temporary suspension of a license under this section, a second hearing on the suspended license shall be held not later than the 60th day~~

~~after the effective date of the suspension, to determine whether the temporary suspension should be continued pending a final disposition of any disciplinary action against the licensee. This second hearing shall be held before the State Office of Administrative Hearings in accordance with Board Rules and the Act. If the second hearing is not held in the time required by this rule, the suspended license is automatically reinstated, unless the delay was caused by the licensee or the licensee's agent.~~

Rule: 469.7. Persons with Criminal Backgrounds.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.7. Persons with Criminal Backgrounds.~~

~~(a) The Board may revoke or suspend an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense directly relates to the performance of the activities of a licensee and the conviction directly affects such person's present fitness to perform as a licensee of this Board.~~

~~(b) Criminal History Evaluation Letters.~~

~~(1) In compliance with Chapter 53 of the Texas Occupations Code, the Board will provide criminal history evaluation letters.~~

~~(2) A person may request the Board to provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this Board and the person has reason to believe that the person is ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.~~

~~(3) The requestor must submit to the Board a completed Board application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions and resolution to the Board.~~

~~(4) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.~~

~~(5) The Board has the authority to investigate a request for a criminal history evaluation letter and may require that the requestor provide additional information about the convictions and other dispositions if requested by the Board.~~

(6) The Board will provide a written response to the requestor within 90 days of the Board's receipt of the request, unless a more extensive investigation is required or the requestor fails to comply with a Board investigation. The Board's evaluation letter will state the Board's determination on each ground for potential ineligibility presented by the requestor.

(7) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the Board at the time the letter is issued, the Board's ruling on the request determines the requestor's eligibility only with respect to the grounds for potential ineligibility set out in the letter.

(c) The Board shall revoke an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony conviction under Section 35A.02 of the Texas Penal Code, concerning Medicaid fraud.

(d) No person currently serving a sentence in a penal institution or correctional facility following a felony conviction is eligible to obtain or renew his/her license.

(e) In determining whether a criminal conviction directly relates to the performance of a licensee, the Board shall consider the factors listed in the Texas Occupations Code, Chapter 53.

(f) Those crimes which the Board considers as directly related to the performance of a licensee:

(1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;

(2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;

(3) any criminal violation of the Psychologists' Licensing Act;

(4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;

(5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;

(6) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of

Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;

(7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;

(8) any offense involving the failure to report abuse;

(9) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;

(10) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);

(11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and

(12) any attempt, solicitation, or conspiracy to commit an offense listed herein.

(g) In determining whether a criminal conviction directly affects present fitness of the licensee, the Board shall consider the factors listed in Texas Occupations Code, §53.023.

(h) It shall be the responsibility of the licensee to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all criminal offenses.

(i) The licensee shall also furnish proof in such form as may be required by the Board that he/she maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines and restitution as may have been ordered in all criminal cases in which he/she has been convicted.

Rule: 469.8. Rehabilitation Guidelines.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.8. Rehabilitation Guidelines.~~

~~(a) In the event of revocation or suspension of a license due to non-compliance with the rules of the Board and/or its ethical principles, the Board, in its discretion, may implement a plan of rehabilitation. The plan shall outline the steps the person must follow in order to be considered for relicensure or removal of suspension. Completion of the plan may lead to consideration of submission of an application for relicensure; removal of suspension; or removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised, expanded, and/or continued depending upon the progress of the rehabilitation program. The licensee, before beginning the options outlined in subsection (b) of this section, must address any outstanding complaints.~~

~~(b) The Board may follow one or more options in devising a rehabilitation program:~~

~~(1) The individual may be supervised for a specified length of time in all or selected areas of activities related to his/her practice as a licensee by a licensed psychologist approved by the Board.~~

~~(A) The Board will specify the focus of the supervision.~~

~~(B) The Board will specify the number of hours per week required in a face-to-face supervisory contract.~~

~~(C) The supervisor will provide periodic and timely reports to the Board concerning the progress of the supervisee.~~

~~(D) Any fees for supervision time will be the responsibility of the supervisee.~~

~~(2) The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include but are not limited to workshops, seminars,~~

courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars which are not held in a setting of academic review (approved professional development) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan.

(3) The Board may require of the individual:

(A) psychodiagnostic evaluations by a psychologist approved by the Board;

(B) a physical examination including alcohol and drug screening by a physician approved by the Board;

(C) psychotherapy on a regular basis from a psychologist approved by the Board; or

(D) any other requirement that seems appropriate to the individual case.

(4) The Board may require the individual to:

(A) take or retake and pass the appropriate professional examination;

(B) take or retake and pass the Jurisprudence Examination; or

(C) complete any other requirement that seems appropriate to the individual case.

Rule: 469.9. Complaints Alleging Violations of Court Orders or Education Law.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.9. Complaints Alleging Violations of Court Orders or Education Law.~~

~~(a) No complaint will be processed against a licensee if such complaint is predicated upon a violation of a court order unless such complaint includes certified court documents which show that the court has decided that the licensee did violate the specific court order and the court's response to such violation.~~

~~(b) Complaints Involving Standard of Care Issues in Schools:~~

~~(1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.~~

~~(2) For purposes of this rule, the rule of limitations found in Board rule 469.1, of this title (relating to Timeliness of Complaints), shall not begin to run until all of the administrative remedies reference in subsection (b)(1) have been exhausted.~~

~~(3) Notwithstanding subsection (b)(1), an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by subsection (b)(1) regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations set forth in Board rule §469.1 of this title.~~

~~(4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in subsection (b)(1), nor shall it operate to limit the Board's ability to bring a complaint for any matter within the agency's jurisdiction.~~

Rule: 469.10. Rules of Evidence in Contested Cases.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.10. Rules of Evidence in Contested Cases. The rules of evidence described in the Administrative Procedure Act will be followed by the Board and its hearing officers. Considering that the Board commonly relies upon information presented to it in applications, written responses, and related documentation in the routine conduct of its affairs, including official decision-making in the processing of applications for licensure, evidence of a similar type will be considered and may be relied upon by the Board and its hearing officers in the conduct of the Board's affairs involving official decision-making in all matters relating to licensure, including disciplinary matters in contested cases.~~

Rule: 469.11. Legal Actions Reported and Reciprocal Discipline.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.11. Legal Actions Reported and Reciprocal Discipline.~~

~~(a) Licensees are required to report legal actions as follows:~~

~~(1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Board within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.~~

~~(2) Any lawsuit brought by or against a licensee concerning or related to the delivery of psychological services or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Board within thirty days of either filing by or service upon the licensee.~~

~~(3) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action as set forth in the Act at §501.401. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Board rules.~~

~~(4) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Board by sending notification of the action within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement his or her report to the Board with a copy of any order, letter, or determination setting forth the final~~

~~disposition of the matter within thirty days following the final disposition.~~

~~(b) Reciprocal Discipline:~~

~~(1) A complaint shall be opened upon receipt of a report of discipline against a licensee by another health licensing board in this state or any other jurisdiction.~~

~~(2) The disciplinary action imposed on a licensee who is disciplined by another health licensing board will be the discipline applicable to the same conduct or rule violation under Board rules.~~

~~(3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing board constitutes disciplinary action under this rule. A complaint shall be opened and the disciplinary action imposed will be the discipline applicable under Board rules to the alleged conduct as if proved.~~

Rule: 469.12. Suspension of License for Failure to Pay Child Support.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.12. Suspension of License for Failure to Pay Child Support.~~

~~(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive director shall immediately determine if the Board has issued a license to the obligor named on the order, and, if a license has been issued:~~

~~(1) enter an order of suspension of the license;~~

~~(2) report the suspension as appropriate; and~~

~~(3) demand surrender of the suspended license.~~

~~(b) The Board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The Board will provide notice as appropriate to the licensee or to others concerned with the license.~~

~~(c) The Board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.~~

~~(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the Board.~~

~~(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.~~

~~(f) An individual who continues to engage in the practice of psychology or continues to use the titles "Licensed Psychologist," "Provisionally Licensed Psychologist," "Licensed Psychological Associate," "Licensed~~

~~Specialist in School Psychology" or the initials "L.P.," "P.L.P.," "L.P.A.," or "L.S.S.P." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the Board.~~

~~(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.~~

~~(h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in Board rule §473.3 of this title (relating to Annual Renewal Fees) prior to issuance of the license under subsection (g) of this section.~~

~~(i) In compliance with Chapter 232, Family Code, upon notice from a child support agency that a licensee has failed to pay child support for six months or more, and requests that the Board refuse to renew the license, the Board will not accept an application for renewal until it is notified by the child support agency that the licensee has met requirements set by law. The Board may charge the licensee a fee for such a denial of renewal.~~

Rule: 469.14. Monitoring of Licensees.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.14. Monitoring of Licensees.~~

~~(a) The Compliance Committee is responsible for monitoring licensees who are ordered by the Board to perform certain acts. The Compliance Committee ascertains that the licensee performs the required acts within the designated time period.~~

~~(b) The Compliance Committee is responsible for implementing the Board's preventative approach to enforcement of the Act and the Rules of the Board by identifying and monitoring licensees who represent a risk to the public.~~

Rule: 469.15. Disciplinary Action for Persons with Dual Licensure.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.15. Disciplinary Action for Persons with Dual Licensure. Disciplinary Action for Persons with Dual Licensure. A disciplinary action taken by the Board against a licensee is considered a disciplinary action against all licenses that the licensee holds with the Board.~~

Rule: 470.1 Objective and Scope

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.1 Objective and Scope. The objective of this chapter is to obtain a just, fair, and equitable determination of any matter within the jurisdiction of the Board. To the end that this objective may be attained with as great expedition and at the least expense as possible to the parties and the State, the provisions of this chapter shall be given a liberal construction. The provisions of this chapter govern the procedure for the institution, conduct, and determination of all proceedings before the Board. The provisions of the Administrative Procedure Act (APA), Government Code, Chapter 2001, govern where ambiguity or differences exist between the provisions of this chapter and APA.~~

Rule: 470.2 Definitions

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.2. Definitions. The following terms have the following meanings:~~

~~(1) Act--The Psychologists' Licensing Act, Texas Occupations Code, Title 3, Subtitle I, Chapter 501.~~

~~(2) Administrative Law Judge (ALJ)--An individual appointed by the Chief Administrative Law Judge of the State Office of Administrative Hearings (SOAH) under Government Code, Chapter 2003, §2003.041.~~

~~(3) Agency--The Board and all divisions, departments and employees thereof.~~

~~(4) Administrative Procedure Act (APA)--Government Code, Chapter 2001, as amended.~~

~~(5) Applicant--A party seeking a license from the Board.~~

~~(6) Authorized representative--An attorney authorized to practice law in the State of Texas or, if authorized by applicable law, a person designated by a party to represent the party.~~

~~(7) Board--The nine-member Texas State Board of Examiners of Psychologists.~~

~~(8) Board member--One of the members of the Board, appointed pursuant to the Act, §501.051, and qualified under the Act, §501.051, §501.052 and §501.053.~~

~~(9) Chair--The chairperson of the Board.~~

~~(10) Complainant--A party bringing a complaint under the Act.~~

(11) Complaint--An action over which the Board has jurisdiction filed against any individual who violates the Act and/or Rules of the Board.

(12) Contested case--A proceeding, including, but not restricted to licensing and disciplinary action in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing.

(13) Disciplinary Review Panel--Committee appointed by the Chair, including at least one public member, to conduct informal settlement conferences concerning disciplinary actions and to make recommendations to the Board.

(14) Executive Director--The executive director of the Board designated in accordance with the Act, §501.101.

(15) License--The whole or part of any agency permit, approval, registration, or similar form of permission required by law.

(16) Licensee--Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.

(17) Licensing--The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(18) Official act--Any act performed by the Board pursuant to a duty, right or responsibility imposed or granted by law.

(19) Party--Each person or agency named or admitted to participate as a party before the Board or the State Office of Administrative Hearings.

(20) Person--An individual, representative, corporation, or an agency or instrumentality of government.

(21) Pleading--A written document submitted by a party or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.

(22) Presiding officer--The chair, the acting chair of the Board, or a duly authorized administrative law judge while acting with respect to a hearing.

(23) Public health agency--The Board is a public health agency.

(24) Respondent--An individual over whom the Board has jurisdiction and against whom a complaint is filed.

(25) Rule--Any agency statement of general applicability that implements or prescribes law or policy by defining general standards of conduct, rights, or obligations of persons, or describes the procedure or practice requirements that prescribe the manner in which public business before an agency may be initiated, scheduled, or conducted, or interprets or clarifies law or agency policy, whether with or in the absence of an explicit grant of power to the agency to make rules. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures. This definition includes regulations.

(26) State Office of Administrative Hearings (SOAH)--The agency to which contested cases are referred by the Texas State Board of Examiners of Psychologists.

(27) Texas Public Information Act--Texas Government Code, Chapter 552.

Rule: 470.3 Construction

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.3. Construction.~~

~~(a) A provision of a section referring to the Board is construed to apply to the Board or the chair if the matter is within the jurisdiction of the Board.~~

~~(b) Unless otherwise provided by law, any duty imposed on the Board or chair may be delegated to a duly authorized representative. In such case, the provisions of any section referring to the Board or the chair shall be construed to also apply to the duly authorized representative or chair.~~

Rule: 470.4 Records of Official Action

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.4. Records of Official Action. All official acts of the Board shall be evidenced by a recorded or written record.~~

~~(1) The minutes of the Board shall constitute a written record. Such writings shall be open to the public in accordance with the Act and the Texas Open Records Act, Government Code Chapter 552. The Board may, in its discretion and in accordance with the open meetings law, Chapter 551, Government Code, conduct any portion of its meeting in executive session.~~

~~(2) The Board may in its discretion conduct deliberations relative to licensee disciplinary actions in executive session. At the conclusion of its deliberations relative to licensee disciplinary action, the board shall vote and announce its decision relative to the licensee in open session.~~

~~(3) Official action of the Board shall not be bound or prejudiced by any informal statement or opinion made by any member of the Board or the employees of the agency staff.~~

Rule: 470.5. Conduct and Decorum.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.5. Conduct and Decorum.~~

~~(a) Parties, authorized representatives, witnesses, and other participants in Board proceedings shall conduct themselves with proper dignity, courtesy, and respect for the Board, the executive director, the administrative law judge, and all other participants. Disorderly conduct will not be tolerated.~~

~~(b) All authorized representatives shall observe the standards of ethical conduct prescribed for their professions.~~

~~(c) The presiding officer may, at his or her discretion, exclude a violator of this rule from the proceeding for such period as is deemed just.~~

~~(d) Violation of rule 470.5 is grounds for imposition of Board disciplinary action.~~

Rule: 470.6. Agreement to be in Writing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.6. Agreement to be in Writing. Unless otherwise provided in these rules, no agreement between the parties or their authorized representatives regarding any contested case or other matter before the Board shall be enforced unless it is in writing, signed, and filed with the Board, or unless it is entered on the record at a hearing.~~

Rule: 470.8. Information Disposition of Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.8. Information Disposition of Complaints.~~

~~(a) Complaints.~~

~~(1) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal in accordance with §2001.056 of the Administrative Procedure Act.~~

~~(2) Prior to the imposition of disciplinary sanction(s) against a license, the licensee shall be offered an opportunity to attend an informal conference and show compliance with all requirements of law, in accordance with §2001.054(c) of the Administrative Procedure Act.~~

~~(3) Informal conferences shall be conducted by the Chair of the Disciplinary Review Panel. The conference shall also be attended by the designated representative, legal counsel of the agency or an attorney employed by the office of the attorney general, and other representative(s) of the agency as the executive director and legal counsel may deem necessary for proper conduct of the conference. The licensee and/or the licensee's authorized representative(s) may attend the informal conference and shall be provided an opportunity to be heard and to present witnesses, affidavits, letters, reports, and any information deemed relevant for the Board's consideration in the matter. The licensee's attendance and participation is voluntary.~~

~~(4) In any case where charges are based upon information provided by a person (complainant) who filed a complaint with the Board, the complainant may attend the informal conference. A complainant who chooses to attend an informal conference shall be provided an opportunity to be heard, at a time separate from the respondent, with regard to violations based upon the information provided by~~

~~the complainant. Nothing herein requires a complainant to attend an informal conference.~~

~~(5) Informal conferences shall not be deemed meetings of the Board and no formal record of the proceedings at such conferences shall be made or maintained. Any informal record of conferences shall be made by mechanical or electronic means at the discretion of the Committee Chair.~~

~~(6) Any proposed consent order shall be presented to the Board for its review. At the conclusion of its review, the Board shall approve or disapprove the proposed consent order. Should the Board approve the proposed consent order, the appropriate notation shall be made in the minutes of the Board; and the proposed consent order shall be entered as an official action of the Board. Should no agreement be entered into, the Board may refer the matter to SOAH for a formal hearing.~~

~~(b) Confidentiality of Informal Settlement Conferences. The Panel may take any and all steps necessary to ensure the confidentiality of the informal settlement conference in accordance with §501.205 of the Act, including, but not limited to, conducting the entirety of the conference in executive session.~~

Rule: 470.9. Witness Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.9. Witness Fees. Persons appearing as witnesses before the Board in an administrative hearing process (i.e., depositions, hearings, meetings, etc.) will receive reimbursement for expenses incurred. These expenses include travel, lodging, and up to $40 per day for meals and other expenses. Airfare is reimbursed at the lowest available fare.~~

Rule: 470.10. Subpoenas

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.10. Subpoenas. On its own motion or, on the written request of any party to a contested case pending before it, for good cause shown and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under Administrative Procedure Act, Tex. Gov't Code Ann. §2001.103 (relating to expenses of witness or deponent), the agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purpose of a proceeding.~~

Rule: 470.11. Service in Non-Rulemaking Proceedings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.11. Service in Non-Rulemaking Proceedings. Where service of notice by the agency is required, all parties shall be notified either personally, by first class mail, or by certified mail, return receipt requested, to the party's last known mailing address as shown in Board records. If any party has appeared by attorney or other representative, service shall be made by the methods above upon such attorney or representative.~~

Rule: 470.12. Contested Cases Referred to the State Office of Administrative Hearings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.12. Contested Cases Referred to the State Office of Administrative Hearings. Unless otherwise provided by statute, contested cases referred by the Board to the State Office of Administrative Hearings pursuant to the Administrative Procedure Act (APA), Texas Government Code, Chapter 2001, will be governed by the rules of practice and procedure in accordance with Title 1, Chapter 155 of the Texas Administrative Code and applicable sections of the APA.~~

Rule: 470.15. Proposal for Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.15. Proposal for Decision.~~

~~(a) In a contested case, upon completion of the hearing before SOAH, the ALJ shall prepare a proposal for decision to the agency and serve a copy of the proposal for decision upon each party. The Board may request that the proposal for decision be presented to the board by the ALJ at the next scheduled Board meeting.~~

~~(b) A proposal for decision shall contain a statement by the ALJ of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.~~

~~(c) Upon issuance of a proposal for decision by an ALJ in a contested case, any party may file written exceptions to the proposal for decision within fifteen (15) days after its issuance. Within fifteen (15) days after a party files written exceptions under this section, any other party may file a written reply.~~

~~(d) A proposal for decision may be amended by the ALJ in response to exceptions, replies and/or briefs submitted by the parties without again being served on the parties.~~

Rule: 470.16. Final Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.16. Final Decision.~~

~~(a) Any final decision or order adverse to a party in a contested case shall be in writing.~~

~~(b) A final decision shall include findings of fact and conclusions of law, separately stated.~~

~~(c) A party in a contested case shall be notified either personally or by first class mail of any decision or order.~~

~~(d) When the Board issues a final decision or order ruling on a motion for rehearing, the agency shall send a copy of that final decision or order by first class mail to the attorney of record and to the represented party. The agency shall keep an appropriate record of the mailing.~~

~~(e) A party or attorney of record notified by mail of a final decision or order as required by this subsection shall be presumed to have been notified on the date such notice is mailed.~~

~~(f) A decision in a contested case is final:~~

~~(1) if a motion for hearing is not filed on time, on the expiration of the period for filing a motion for rehearing;~~

~~(2) if a motion for rehearing is filed on time, on the date:~~

~~(A) the order overruling the motion for rehearing is rendered; or~~

~~(B) the motion is overruled by operation of law;~~

~~(3) if the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision is rendered; or~~

(4) on the date specified in the order for a case in which all parties agree on the specified date in writing or on the record, if the specified date is not before the date the order is signed or later than the 20th day after the date the order was rendered.

(g) If a decision or order is final under subsection (f)(3), the Board shall recite in the decision or order the finding made under Subsection (f)(3) and the fact that the decision or order is final and effective on the date rendered.

(h) As the Board has been created by the legislature to protect the public interest as an independent agency of the executive branch of the government of the State of Texas so as to remain the primary means of licensing and regulating the practice of psychology consistent with federal and state law and to ensure that sound principles of psychology govern the decisions of the Board, the Board may, in accordance with §2001.058 of the APA, change a finding of fact or conclusion of law or to vacate or modify the proposed order of an ALJ, if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under §2001.058(c), or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(i) If the Board modifies, amends or changes the ALJ's proposal for decision, an order shall be prepared reflecting the Board's changes as stated in the record.

Rule: 470.17. Motion for Rehearing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.17. Motion for Rehearing.~~

~~(a) A motion for rehearing is a prerequisite to appeal from a Board's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~

~~(b) The Executive Director is authorized to grant or deny, at his or her own discretion, requests to extend the deadline for filing a motion for rehearing in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~

~~(c) In the event of an extension, the motion for rehearing may be overruled by operation of law in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~

Rule: 470.18. The Record.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.18. The Record. The record in a contested case includes:~~

~~(1) each pleading, motion, and intermediate ruling;~~

~~(2) evidence received or considered by the Board;~~

~~(3) a statement of matters officially noticed;~~

~~(4) questions and offers of proof, objections, and rulings on them;~~

~~(5) proposed findings of fact and conclusions of law, as well as exceptions thereto;~~

~~(6) each decision, opinion, or report made by the administrative law judge; and~~

~~(7) all staff memoranda or data submitted to or considered by the administrative law judge or Board decision makers.~~

Rule: 470.19. Cost of Appeal.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.19. Cost of Appeal. A party appealing a final decision of the Board in a contested case may be ordered by the Board to pay all or a part of the cost of preparation of the original or a certified copy of the record of the proceeding that is required to be transmitted to the reviewing Court.~~

Rule: 470.20. Computation of Time.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.20. Computation of Time. In computing time periods prescribed by these rules, or by order of the agency, the day of the act, event or default on which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which case the time period will end on the next day that the agency is open.~~

Rule: 470.21. Disciplinary Guidelines.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.21. Disciplinary Guidelines.~~

~~(a) Purpose. The Purpose of the guidelines is to:~~

~~(1) Provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters;~~

~~(2) Promote consistency in the exercise of sound discretion by the Board in the imposition of sanctions in disciplinary matters; and~~

~~(3) Provide guidance for the resolution of potentially contested matters.~~

~~(b) Limitations. The Board shall render the final decision in a contested case and has the responsibility to assess sanctions against licensees who are found to have violated the Act. The Board welcomes recommendations of administrative law judges as to the sanctions to be imposed, but the Board is not bound by such recommendations. A sanction should be consistent with sanctions imposed in other similar cases and should reflect the Board's determination of the seriousness of the violation and the sanction required to deter future violations. A determination of the appropriate sanction is reserved to the Board. The appropriate sanction is not a proper finding of fact or conclusion of law. This chapter shall be construed and applied so as to preserve the Board's discretion in the imposition of sanctions and remedial measures pursuant to the Act's provisions related to methods of discipline and administrative penalties. This chapter shall be further construed and applied so as to be consistent with the Act, and shall be limited to the extent as otherwise proscribed by statute and Board rule.~~

~~(c) The Board's rules concerning disciplinary guidelines, schedule of sanctions, and aggravating and mitigating circumstances are not intended to be exhaustive. The Board may recommend revocation for licensees who violate one or more Board rules.~~

(d) Disciplinary Sanctions. If the Board does not revoke a license in connection with a disciplinary matter, it may impose the following disciplinary sanctions which are listed in descending order of severity:

(1) Suspension for a definite period of time;

(2) Suspension plus probation of any or all of the suspension period;

(3) Probation of the license for a definite period of time;

(4) Reprimand; and

(5) Administrative penalty.

(e) Additional conditions. As terms of any sanction imposed by the Board upon a licensee pursuant to a disciplinary matter the Board may, at its discretion, impose any additional conditions and/or restrictions upon the license of the licensee that the Board deems necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:

(1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed psychologist approved by the Board;

(2) Restrictions on the licensee's ability to provide certain types of psychological services or to provide psychological services to certain classes of patients;

(3) Restrictions on the licensee's supervision of others in the practice of psychology;

(4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Board in addition to any minimum number required of all licensees as a condition of licensure;

(5) Taking and passing with the minimum required score of any examination required by the Board of a licensee;

(6) Undergoing a psychological and/or medical evaluation by a qualified professional approved in advance by the Board and undergoing any treatment recommended pursuant to the evaluation;

(7) Writing a research paper on a specific topic;

~~(8) Any other condition reasonably related to the rehabilitation and education of the licensee.~~

~~(f) The length of the sanction period shall be determined by the Board taking into account the time reasonably required to complete the required terms and conditions set forth in the order imposing the sanction.~~

Rule: 470.22. Schedule of Sanctions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.22. Schedule of Sanctions.~~

~~(a) These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Psychologists' Licensing Act and Board Rules of conduct. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.~~

~~(1) Single Violation. The standard sanctions outlined below shall apply to cases involving a single violation of the Act, and in which there are no aggravating or mitigating factors that apply.~~

~~(2) Multiple Violations. The board may impose more restrictive sanctions when there are multiple violations of the Act.~~

~~(3) Aggravating and Mitigating Factors. The Board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §470.23 of this chapter (relating to Aggravating and Mitigating Circumstances) that are found to apply in a particular case.~~

~~(4) The standard and minimum sanctions outlined below are applicable to first time violators. The Board shall consider more severe sanctions if the person is a repeat offender.~~

~~(5) The maximum sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to $1,000 per violation. In accordance with §501.452 of the Act, each day the violation continues is a separate violation.~~

~~(6) Each violation constitutes a separate offense, even if arising out of a single act.~~

(7) Failure to list a type of violation or Board Rule in this rule does not prevent the Board from taking disciplinary action for such a violation.

(8) If a sanction for a violation of Board Rules is not listed in this rule, or specifically stated elsewhere in laws, the default sanction shall be a reprimand.

(9) Notwithstanding paragraph (8) of this subsection, the Board will evaluate and determine, on a case-by-case basis, the appropriate sanction for an individual with a qualifying conviction under §501.401(2) of the Act, as well as for an individual found to be incompetent under §501.158 of the Act.

(b) The following standard sanctions shall apply to violations of the Act and Rules.

Rule: 470.23. Aggravating and Mitigating Circumstances.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.23. Aggravating and Mitigating Circumstances.~~

~~(a) Aggravating Circumstances. Aggravating circumstances are those which may increase the severity of a rule violation, justifying the imposition of a more severe penalty. Such circumstances include but are not limited to the following:~~

~~(1) Patient harm and the type and severity thereof;~~

~~(2) Economic harm to any individual or entity and the severity thereof;~~

~~(3) Increased potential for harm to the public;~~

~~(4) Attempted concealment of misconduct;~~

~~(5) Premeditated conduct;~~

~~(6) Intentional misconduct;~~

~~(7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice of psychology;~~

~~(8) Prior misconduct of a similar or related nature;~~

~~(9) Disciplinary history;~~

~~(10) Likelihood of future misconduct of a similar nature;~~

~~(11) Violation of a Board order;~~

~~(12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;~~

~~(13) Lack of rehabilitative potential;~~

(14) Motive and intent; and

(15) Any relevant circumstances or facts increasing the level of violation.

(b) Mitigating Circumstances. Mitigating circumstances are those which may reduce the severity of a less severe penalty. Such circumstances include the absence of aggravating circumstances listed above as and the presence of one or more of the following:

(1) Acceptance of responsibility;

(2) Self-reported rule violations;

(3) Implementation of remedial measures to correct or mitigate harm arising from the misconduct;

(4) Motive;

(5) Rehabilitative potential;

(6) Prior community service;

(7) Relevant facts and circumstances reducing the seriousness of the violation; and

(8) Relevant facts and circumstances lessening responsibility for the violation.

Rule: 470.24. Enforcement of Orders, Decisions, and Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.24. Enforcement of Orders, Decisions, and Rules.~~

~~(a) When it appears to the Board that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, the agency may request that the attorney general bring an action in a district court in Travis County, Texas to exercise judicial review of the final order or decision or the rule, to~~

~~(1) enjoin or restrain the continuation or commencement of the violation, or~~

~~(2) compel compliance with the final order or decision or the rule.~~

~~(b) The action authorized by this rule is in addition to any other remedy provided by law.~~

REPEAL CHAPTER 471 RENEWALS

Rule: 471.1. Renewal of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.1. Renewal of a License.~~

~~(a) All licenses issued by the Board shall be subject to annual renewal through August 31, 2019. Effective September 1, 2019, all licenses issued by this agency are renewable on a biennial basis and must be renewed online.~~

~~(b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.~~

~~(c) Licensees must pay all applicable renewal and late fees, indicate compliance with the professional development requirements set out in Board rule §461.11 of this title (relating to Professional Development), provide a standardized set of information about their training and practices or update this information prior to renewal, and comply with any other requirements set out in agency renewal forms as a prerequisite for renewal of a license. Licensed psychologists must also update their online profile information when renewing their license. A license may not be renewed until a licensee has complied with the requirements of this rule.~~

~~(d) A licensee who falsely reports compliance with Board rule §461.11 of this title on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.~~

~~(e) Licensees will be sent notification of their approaching renewal date at least 30, but not more than 90 days before their renewal date. This notification will be sent to the licensee's address of record via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Board shall not operate to excuse a licensee's failure to timely renew a license. Licensees who do not timely renew their license will be sent a second notice informing them that their license has become delinquent. The second notice will be sent to the licensee's address of record via certified or register mail. Failure of a licensee to receive the~~

second notification shall not operate to excuse the failure to timely renew a license or any unlawful practice with a delinquent license.

(f) Notwithstanding subsection (a) of this section, effective September 1, 2019 one-half of the individuals licensed by this agency will be selected and required to renew their license(s) on a one-time basis for one year, after which their renewal period will be automatically converted to the biennial renewal period. The renewal fee for a license renewed under this subsection shall be one-half of the biennial renewal fee for the particular license, together with the appropriate Office of Patient Protection and Texas.gov subscription fees. The professional development requirements for a license renewed under this paragraph shall also be reduced to one-half of the professional development requirements under Board rule §461.11 of this title.

Rule: 471.3. Initial License Renewal Dates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.3. Initial License Renewal Dates~~

~~(a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.~~

~~(b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:~~

~~(1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.~~

~~(2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.~~

~~(c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.~~

~~(d) Notwithstanding subsection (b) of this section, for individuals with more than one license, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.~~

Rule: 471.4. Nonrenewal for Default of Guaranteed Student Loan.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.4. Nonrenewal for Default of Guaranteed Student Loan.~~

~~(a) The Board will not renew the license of a licensee identified by the Texas Guaranteed Student Loan Corporation as a person in default on a guaranteed student loan or repayment agreement, unless the licensee presents the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~

~~(b) Prior to the nonrenewal of any license under this rule, a licensee shall be notified that the Texas Guaranteed Student Loan Corporation has identified the licensee as being in default on a guaranteed student loan or repayment agreement. If the licensee then submits a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement, the licensee will be permitted to renew their license. Alternatively, the licensee may submit a written request to the Board for a hearing at which the licensee may present the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement. The Board must receive the request for a hearing on or before the 30th day following the date of the notice sent to the licensee. If a timely request is made, the Board shall conduct a hearing at the next available board meeting. If a timely request is not made, no hearing will be held and the licensee's license will not be renewed unless prior to their renewal date, the licensee provides the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~

Rule: 471.5. Updated Information Requirements.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.5. Updated Information Requirements. Each licensee shall provide the following information when renewing his/her license each year:~~

~~(1) Any of those matters which the licensee is required to report under Board rule §469.11 of this title (relating to Legal Actions Reported and Reciprocal Discipline.~~

~~(2) The names of all jurisdictions where the licensee currently holds a license to practice psychology;~~

~~(3) If the licensee has complied with the annual requirements for professional development;~~

~~(4) If the licensee has a guaranteed student loan in default; and~~

~~(5) If the licensee is currently in default of any court-ordered child support.~~

Rule: 471.6. Renewal Terms Exclusive to Licensees on Active Military Duty.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.6. Renewal Terms Exclusive to Licensees on Active Military Duty.~~

~~(a) Licensees serving on active duty, as defined by Tex. Occ. Code Ann. §55.001, may request a waiver from the professional development requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Board prior to their renewal date each renewal period, and provide the Board with official verification of active duty status during their renewal period, will be granted a waiver from the professional development requirements and renewal fees associated with the renewal of their license for that renewal period.~~

~~(b) Licensees with an expired or delinquent license may request their license be reinstated or returned to active status if they would have been eligible for a waiver under subsection (a) of this section prior to their license expiring or becoming delinquent. Licensees seeking relief under this subsection must do so within two years of their license becoming delinquent.~~

REPEAL CHAPTER 473 Fees

Rule: 473.1. Application Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.1. Application Fees.~~

~~(a) Application Fees for Original or Initial Applications for Licensure:~~

~~(1) Licensed Psychological Associate: $300~~

~~(2) Provisionally Licensed Psychologist: $445~~

~~(3) Licensed Psychologist: $381~~

~~(4) Licensed Specialist in School Psychology: $275~~

~~(b) Application Fee for Reinstatement of a License--$200~~

~~(c) In addition to the application fees set forth above, applicants must also pay a $5 Office of Patient Protection fee for each application submitted.~~

~~(d) Application fees are nonrefundable and cannot be waived except as otherwise stated herein.~~

~~(e) All license application fees payable to the Board are waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has~~

~~licensing requirements that are substantially equivalent to the requirements of this state.~~

Rule: 473.2. Examination Fees (Non-Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.2. Examination Fees (Non-Refundable).~~

~~(a) Generally Applicable Examination Fees:~~

~~(1) Examination for the Professional Practice of Psychology--$600~~

~~(2) Jurisprudence Examination--$234. A portion of this fee, $34, goes to the third-party vendor that administers the examination on behalf of the Board.~~

~~(b) The portion of the Jurisprudence Examination fee attributable to the Board, shall be waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.~~

Rule: 473.3. Biennial Renewal Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.3. Biennial Renewal Fees (Not Refundable)~~

~~(a) Biennial License Renewal Fees:~~

~~(1) Licensed Psychological Associate: $230;~~

~~(2) Provisionally Licensed Psychologist: $220;~~

~~(3) Licensed Psychologist: $412; and~~

~~(4) Licensed Specialist in School Psychology: $120.~~

~~(b) Notwithstanding subsection (a) of this section, the license renewal fee is $20 for an individual 70 years of age or older, regardless of the type of license held.~~

~~(c) The renewal fee for the Psychologist Health Service Provider status issued by this agency is $40.~~

~~(d) In addition to the renewal fees set forth above, licensees must also pay the following fees in connection with the renewal of a license:~~

~~(1) A $1 Office of Patient Protection fee for each year in the renewal period; and~~

~~(2) A Texas.gov subscription fee for each year in the renewal period in the following amount(s):~~

~~(A) $5 per license for psychologists;~~

~~(B) $3 per license for provisionally licensed psychologists and licensed psychological associates; and~~

~~(C) $2 per license for licensed specialist in school psychology.~~

~~(e) Notwithstanding subsection (d) of this section, licensees 70 years of age and older must pay a $2 Texas.gov subscription fee per license, regardless of the license type.~~

Rule: 473.4. Late Fees for Renewals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.4. Late Fees for Renewals.~~

~~(a) For a license expired ninety days or less, a licensee must pay a late fee in an amount equal to one and one-half times the required renewal fee.~~

~~(b) For a license expired more than ninety days but less than one year, a licensee must pay a late fee in an amount equal to two times the required renewal fee.~~

~~(c) Late renewal fees are nonrefundable and cannot be waived.~~

Rule: 473.5. Miscellaneous Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.5. Miscellaneous Fees (Not Refundable).~~

~~(a) Duplicate or Replacement Calligraphy License--$25.~~

~~(b) Inactive Status--$100.~~

~~(c) Remailing of License--$10.~~

~~(d) Returned Check Fee--$25.~~

~~(e) Analysis of Jurisprudence Examination--$50.~~

~~(f) Cost of Duplicate or Replacement annual renewal permit--$10.~~

~~(g) Limited Temporary License--$100.~~

~~(h) Preliminary Evaluation of Eligibility for Licensure of Person with Criminal Record--$150.~~

~~(i) Written Verification of License:~~

~~(1) Without State Seal--$30~~

~~(2) With State Seal--$50~~

~~(j) Mailing List--$100.~~

Rule: 473.8. Open Records Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.8. Open Records Fees. In accordance with Texas Government Code §552.262, the Board adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Texas Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).~~

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Texas State Board of Examiners of Psychologists (TSBEP),

The Texas Psychological Association (TPA) represents the voices of over 4,500 psychologists in this state. On behalf of those psychologists, we appreciate the continued careful consideration of our comments as TSBEP members and staff implement HB 1501. Despite the breadth of this rulemaking, we are impressed with the transparency and responsiveness of TSBEP throughout this process. We have one concern with the proposed rule language.

The current rule language allows remote or electronic supervision so long as certain conditions are met. The proposed rule removes those conditions, and then adds a requirement that the remote or electronic supervision be synchronous. Specifically, within Rule §465.2, the proposed changes to subsection (a)(7) read:

> *(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include synchronous remote or electronic means. ~~if:~~*
> *~~(A) adequate supervision can be provided through remote or electronic means;~~*
> *~~(B) the difficulties in providing full-time in-person supervision place an unreasonable burden on the delivery of psychological services; and~~*
> *~~(C) no more than fifty percent of the supervision takes place through remote or electronic means.~~*

Our first concern is that the proposed rule appears to prohibit emails and other forms of asynchronous supervision. When the Board met to discuss these rules at the May meeting, concerns about this unintended consequence were raised by Board Members. Nevertheless, an even reading of the new language would likely either confuse or mislead licensees as to the availability of asynchronous communications. Assuming this result was not intended, we hope that the Board will clarify that asynchronous remote or electronic means are still acceptable.

Our second concern is that the proposed language would allow an entire supervisory relationship to take place over audio-only phone calls. A supervisor's role is to identify and address issues that can interfere with the supervisee's ability to behave in an objective and ethical manner when the supervisee begins to practice independently. In doing so, the supervisor must draw upon cues such as body language, eye contact, and gestures to identify such concerns and bring them to the supervisee's attention. If the supervisor never sees the supervisee in person or through videoconferencing, it renders supervision much less effective.

With these concerns in mind, we recommend the following language:

> *(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. No more than fifty percent of the supervision may take place through remote or electronic means. Licensees may exceed fifty percent remote or electronic supervision if supervision is provided through synchronous audiovisual means.*

This new language would address both of our concerns. First, it would clearly allow for the return of asynchronous means of supervision. Supervisors would be able to use asynchronous means, such as email, and synchronous

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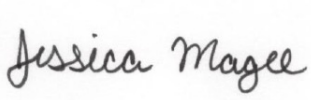
means, such as phone calls, up to 50% of the supervisory relationship. In order to exceed that 50% cap on remote or electronic supervision, supervisors would be required to use synchronous *audiovisual* means, such as Zoom or other videoconferencing software. This would alleviate the second concern, which is that the current draft would allow an audio-only supervisory relationship.

Again, we appreciate this opportunity to comment on the proposed rules. We support the overwhelming majority of the proposals in this rulemaking, but we feel strongly that the language in Rule §465.2(a)(7) would both unintentionally prohibit asynchronous communications and create a potential for abuse by allowing an audio-only supervisory relationship. We hope TSBEP will take this opportunity to address our concerns now in an effort to avoid any damaging outcomes.

Sincerely,



Jessica Magee, Executive Director
Texas Psychological Association