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09/28/2021**



*Texas Behavioral Health
Executive Council and Texas State
Board of Examiners of Psychologists*
Rules

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL NEW, AMENDED, REPEALED RULES

The following is a list of the rules which have been added, amended, or repealed since the last update to these rules.

Online Act and Rules of the Council – September 2020

Online Act and Rules of the Council – February 2021

- 881.21. Petition for Rulemaking (*amended*)
- 885.1. Executive Council Fees (*amended*)

Online Act and Rules of the Council – June 2021

- 882.21. License Statuses (*amended*)
- 882.50. Continuing Education and Audits (*amended*)

Online Act and Rules of the Council – August 2021

- 881.21. Petition for Rulemaking (*amended*)
- 882.11. Applicants with Foreign Degrees (*amended*)
- 885.1. Executive Council Fees (*amended*)

Note: While every effort is made to keep this information as accurate and current as possible, the reader should bear in mind that statutes may be amended, subsequent legislation may be enacted and judicial determinations may be rendered that affect the impact of statutes and rules reported herein.

For any official listing of a rule, a licensee, applicant, or member of the public may consult the Texas Administrative Code on the Secretary of State's website: <http://www.sos.state.tx.us/tac/>. When accessing this website: (1) click on the TAC viewer, (2) scroll down and click on Title 22 Examining Boards, (3) scroll down and click on Part 21, Texas State Board of Examiners of Psychologists. To view rules that have been proposed but not finally adopted by the Board, access the following website: <https://texreg.state.tx.us/public/regviewctx>

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS NEW, AMENDED, REPEALED RULES

The following is a list of the rules which have been added, amended, or repealed since the last update to these rules.

Online Act and Rules of the Council – October 2020

Online Act and Rules of the Council – June 2021

- 463.10. Licensed Psychologists (amended)
- 463.35. Professional Development (amended)
- 463.40. Ineligibility Due to Criminal History (repeal)
- 463.40. Licensing of Persons with Criminal Convictions (new)
- 465.1. Definitions (amended)
- 465.2. Supervision (amended)

Online Act and Rules of the Council – August 2021

- 463.9. Licensed Specialist in School Psychology (*amended*)
- 465.2. Supervision (*amended*)
- 465.38. Psychological Services for Schools (*amended*)

Note: While every effort is made to keep this information as accurate and current as possible, the reader should bear in mind that statutes may be amended, subsequent legislation may be enacted and judicial determinations may be rendered that affect the impact of statutes and rules reported herein.

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Table of Contents

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL RULES.....	11
GENERAL PROVISIONS.....	11
Subchapter A. General Provisions.	11
881.1. Authority.....	11
881.2. Definitions.....	11
881.3. Council and Board Meetings.....	13
881.4. Council Member Terms.....	13
881.5. Conflicts of Interest and Recusals.....	14
881.6. Limited Delegation of Executive Council Authority to Board Members..	15
881.7. Unofficial Statements and Decisions.....	15
881.8. Former Council or Board Members.	16
881.9. Prohibition Against Dual Office Holding.	16
881.10. Conflict Between Other Laws and Council.....	16
881.11. Access to Agency Records by Appointed Members	16
881.12. Statutory or Rule References.....	17
881.13. Conduct and Decorum.....	17
Subchapter B. Rulemaking.....	18
881.20. Rulemaking by the Executive Council.	18
881.21. Petition for Rulemaking.	20
Subchapter C. Personnel.....	21
881.30. Executive Director.	21
881.31. Agency Staff Training and Education.....	21
881.32. Sick Leave Pool.	22
Subchapter D. Contracts and Procurement	22
881.40. Agency Contracts and Purchasing.....	22
881.41. Use of Historically Underutilized Businesses (HUBS).....	23
APPLICATIONS AND EXAMINATIONS	24
Subchapter A. License Applications.	24
882.1. Application Process.....	24

882.2.	General Application File Requirements.....	25
882.3.	Review and Appeal of License Denials	26
882.4.	Assistance in Licensing Determinations.....	26
882.5.	Jurisprudence Examination Requirements.....	27
882.6.	Limitations on Number of Examination Attempts.....	27
882.7.	Reasonable Accommodations for Persons with Disabilities and Dyslexia	27
882.8.	Rescheduling of Examination Due to Religious Holy Day	28
882.9.	Established Application Processing Times.....	28
882.10.	Applicants with Pending Complaints.....	29
882.12.	Refusal to Issue License for Failure to Pay Child Support	30
882.13.	Protections Based on Affiliation with Religious Organizations	30
Subchapter B. License.		30
882.20.	Form of License.	30
882.21.	License Statuses.	31
882.22.	Reinstatement of a License	32
882.23.	License Required to Practice	34
882.24.	Authorized Practice of Marriage and Family Therapy Without a License	35
882.25.	Authorized Practice of Professional Counseling Without a License.....	35
882.26.	Authorized Practice of Psychology Without a License.....	35
882.27.	Authorized Practice of Social Work Without a License	36
Subchapter C. Duties and Responsibilities.		36
882.30.	Display of License.....	36
882.31.	Advertising Restriction	37
882.32.	Duty to Update Name and Address.....	37
882.33.	Disclosure of Proprietary Examination Materials of Information	37
	Prohibited.....	37
882.34.	Filing a False or Misleading Information with the Council.....	38
882.35.	Required Profile Information	38
882.36.	Compliance with State and Federal Law	39
Subchapter D. Criminal History and License Eligibility		39

882.40.	Criminal History Background Checks.....	40
882.41.	Criminal History Evaluation.....	40
882.42.	Ineligibility Due to Criminal History.....	41
Subchapter E. Continuing Education		42
882.50.	Continuing Education and Audits.....	43
Subchapter F. Licensing Provisions Related To Military Service Members, Veterans, and Military Spouses.....		43
882.60.	Special Provisions Applying to Military Service Members, Veterans, and Spouses.....	43
882.61.	Special Licensing Provisions for Military Spouses.....	45
Subchapter G. Emergency Temporary License.....		46
882.70.	Emergency Temporary License.....	46
RENEWALS.....		48
Subchapter A. General Provisions		48
883.1.	Renewal of a License.....	48
883.2.	Initial License Renewal Dates.....	49
883.3.	Nonrenewal for Failure to Pay Child Support.....	49
Subchapter B. Renewal Provisions For Military Personnel		50
883.10.	Renewal Terms for Military Personnel on Active Duty.....	50
COMPLAINTS AND ENFORCEMENT.....		51
Subchapter A. Filing A Complaint		51
884.1.	Timeliness of Complaints.....	51
884.2.	Standardized Complaint Form.....	51
884.3.	Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations.....	51
884.5.	Complaints Alleging Violation of Court Orders or Education Law.....	53
884.6.	Protections Based on Affiliation with Religious Organizations	54
Subchapter B. Investigations and Disposition of Complaints.....		54
884.10.	Investigation of Complaints.....	54
884.11.	Informal Conferences.....	56
884.12.	Complaint Disposition.....	57
Subchapter C. Disciplinary Guidelines and Schedule of Sanctions.....		59

884.20.	Disciplinary Guidelines and General Schedule of Sanctions.	59
884.21.	Assessment of Sanction.	62
Subchapter D. Duties and Responsibilities		62
884.30.	Cooperation with Council Investigations.	62
884.31.	Notice to the Public of Complaint Process	62
884.32.	Reportable Legal Action and Discipline.	63
Subchapter E. License Suspension		64
884.40.	Temporary Suspension of a License.	64
884.41.	Suspension of License for Failure to Pay Child Support.....	66
Subchapter F. Special Provisions For Persons Licensed To Practice Psychology		67
884.50.	Competency Evaluations under Chapter 501 of the Occupations Code.	67
884.51.	Remedial Plans under Chapter 501 of the Occupations Code.....	69
Subchapter G. Compliance		70
884.55.	Monitoring Compliance with Disciplinary Orders.....	70
Subchapter H. Contested Cases.....		70
884.60.	Witness Fees	70
884.61.	Contested Case Hearing Costs.....	70
884.62.	Final Decision and Order.	71
884.63.	Motion for Rehearing.....	71
884.65.	Corrected Final Decision and Order.	71
FEES		72
885.1.	Executive Council Fees	72
TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS.....		76
APPLICATIONS AND EXAMINATIONS		76
Subchapter A. Applications and Licensing.		76
463.1.	Regionally Accredited Educational Institutions	76
463.2.	Reciprocity Agreements with Other Jurisdictions.....	76
463.3.	Use of Other Mental Health License During Supervised Experience.....	77
Subchapter B. Licensing Requirements.		77
463.8.	Licensed Psychological Associate.	77

463.9.	Licensed Specialist in School Psychology.....	80
463.10.	Licensed Psychologists.....	83
463.11.	Supervised Experience Required for Licensure as a Psychologist	88
463.12.	Temporary License.	95
463.13.	Licensure by Reciprocity.....	97
463.14.	Remedy for Incomplete License Requirements.....	97
Subchapter C. Licensing Provisions Related to Military Service Members, Veterans, and Military Spouses.....		98
463.20.	Special Provisions Applying to Military Service Members, Veterans and Spouses.....	98
Subchapter D. Specialty Certifications.		100
463.25.	Health Service Psychologist Specialty Certification.....	100
Subchapter E. Examinations.....		100
463.30.	Examinations Required for Licensure.....	100
463.31.	Minimum Passing Scores for Examinations.....	100
Subchapter F. Professional Development.		101
463.35.	Professional Development.	101
Subchapter G. Criminal History and License Eligibility.....		104
463.40.	Licensing of Persons with Criminal Convictions.....	104
RULES OF PRACTICE		106
465.1.	Definitions	106
465.2.	Supervision	109
465.4.	Employment of Individuals Not Licensed by the Council	113
465.6.	Solicitation, Use of Titles, and Business Names.....	113
465.8.	Psychological Services Are Provided within a Defined Relationship.....	115
465.9.	Competency.....	115
465.10.	Basis for Scientific and Professional Judgments.....	116
465.11.	Informed Consent.....	116
465.12.	Privacy and Confidentiality.....	117
465.13.	Personal Problems, Conflicts and Dual Relationship.....	118
465.14.	Misuse of Licensee Services.....	119
465.15.	Fees and Financial Arrangements.....	120

465.16.	Evaluation, Assessment, Testing, and Reports	120
465.17.	Therapy and Counseling.....	122
465.18.	Forensic Services.....	123
465.20.	Research.	131
465.21.	Termination of Services.....	131
465.22.	Psychological Records, Test Data and Test Materials.....	133
465.32.	Disposition and Assumption of the Practice of a Mental Health Professional.....	136
465.33.	Improper Sexual Conduct.	137
465.34.	Providing Mental Health Services to Those Served by Others.....	138
465.35.	Duty to Report Rule Violations.....	139
465.38.	Psychological Services for Schools.	139
	SCHEDULE OF SANCTIONS.....	142
470.1.	Schedule of Sanctions	142
	OTHER LAWS.....	143
	TEXAS HEALTH AND SAFETY CODE	144
	Chapter 611. Mental Health Records	144
§611.001.	Definitions. In this chapter:.....	144
§611.002.	Confidentiality of Information and Prohibition Against Disclosure....	144
§611.003.	Persons Who May Claim Privilege of Confidentiality.....	144
§611.004.	Authorized Disclosure on Confidential Information Other Than in Judicial or Administrative Proceeding.	145
611.0041.	Required Disclosure of Confidential Information Other Than in Judicial or Administrative Proceeding.....	146
§611.0045.	Right to Mental Health Record.	146
§611.005.	Legal Remedies for Improper Disclosure or Failure to Disclose.	148
§611.006.	Authorized Disclosure of Confidential Information in Judicial or Administrative Proceeding.	148
§611.007.	Revocation of Consent.	149
§611.008.	Request by Patient.....	150
	Texas Family Code:	150
	Texas Human Resource Code:	150

Texas Civil Practice and Remedies Code: 150
Texas Occupations Code: 150

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL RULES

GENERAL PROVISIONS

Subchapter A. General Provisions.

881.1. Authority. This chapter is promulgated under the authority of Occupations Code, Chapter 507, and applies to each member board.

Adopted to be effective: September 1, 2020

881.2. Definitions.

- (a) The following definitions are generally applicable throughout the agency's rules and policies:
 - (1) The term "ALJ" as used herein shall refer to an administrative law judge employed by SOAH.
 - (2) The terms "Chapter 501," "Chapter 502," "Chapter 503," "Chapter 505," and "Chapter 507" as used herein shall refer to the corresponding chapter in the Occupations Code.
 - (3) The term "Executive Council" or "Council" as used herein shall refer to the Texas Behavioral Health Executive Council (BHEC).
 - (4) The term "member board" as used herein shall refer to:
 - (A) The Texas State Board of Examiners of Marriage and Family Therapists (TSBEMFT);
 - (B) The Texas State Board of Examiners of Professional Counselors (TSBEPC);
 - (C) The Texas State Board of Examiners of Psychologists (TSBEP); or
 - (D) The Texas State Board of Social Worker Examiners (TSBSWE).
 - (5) The term "PFD" as used herein shall refer to a proposal for decision issued by an ALJ.
 - (6) The terms "professional development" and "continuing education" as used herein have the same meaning.
 - (7) The term "SOAH" as used herein shall refer to the State Office of Administrative Hearings.

- (8) The term "TAC" as used herein shall refer to the Texas Administrative Code.
- (b) The following definitions apply only to those rules specific to the regulation of the practice of marriage and family therapy:
 - (1) "LMFT" refers to a licensed marriage and family therapist and has the same meaning as assigned by §502.002 of the Occupations Code.
 - (2) "LMFT Associate" refers to a licensed marriage and family therapist associate and has the same meaning as assigned by §502.002 of the Occupations Code.
- (c) The following definitions apply only to those rules specific to the regulation of the practice of professional counseling:
 - (1) "LPC" refers to a licensed professional counselor and has the same meaning as assigned by §503.002 of the Occupations Code.
 - (2) "LPC Associate" refers to an individual licensed as a professional counselor associate under §503.308 of the Occupations Code.
- (d) The following definitions apply only to those rules specific to the regulation of the practice of psychology:
 - (1) "LPA" or "Psychological Associate" refers to an individual licensed as a psychological associate under §501.259 of the Occupations Code.
 - (2) "LSSP" refers to an individual licensed as a specialist in school psychology under §501.260 of the Occupations Code.
 - (3) "Provisionally licensed psychologist" or "provisional licensee" means an individual licensed as a psychologist with provisional status under §501.253 of the Occupations Code.
 - (4) "PSYPACT" refers to the Psychology Interjurisdictional Compact found in Chapter 501, Subchapter L of the Occupations Code.
- (e) The following definitions apply only to those rules specific to the regulation of the practice of social work:
 - (1) "LBSW" refers to a licensed baccalaureate social worker and has the same meaning as assigned by §505.002 of the Occupations Code.
 - (2) "LCSW" refers to a licensed clinical social worker and has the same meaning as assigned by §505.002 of the Occupations Code.
 - (3) "LMSW" refers to a licensed master social worker and has the same meaning as assigned by §505.002 of the Occupations Code.

- (4) "LMSW-AP" refers to an individual licensed as a master social worker with the advanced practitioner specialty recognition.

Adopted to be effective: September 1, 2020

881.3. Council and Board Meetings.

- (a) Every regular, special, or called meeting of the Council or a member board shall be open to the public as provided by the Government Code, Chapter 551 ("the Open Meetings Act").
- (b) A quorum for the Council or a member board shall consist of a majority of all the respective members as designated by statute. When a quorum is present, a motion before the body is carried by an affirmative vote of the majority of the members present and participating in the vote.
- (c) The presiding officers of the Council and member boards may make and second motions, as well as vote on any matter brought before their respective body without the necessity of relinquishing the chair.
- (d) The Council and each member board shall provide the public with a reasonable opportunity to appear before the respective body and offer public comment on any issue under the Council's or member board's jurisdiction. Persons wishing to offer public comment must sign in at the beginning of the meeting and may speak during the public comment portion of the meeting. The presiding officer shall maintain decorum and orderly proceedings, and may limit the time allowed for each individual providing public comment.

Adopted to be effective: September 1, 2020

881.4. Council Member Terms.

- (a) The terms for the Council members selected by the Texas State Board of Examiners of Psychologists and the Texas State Board of Social Worker Examiners shall expire as follows:
 - (1) for professional members, on February 1st of odd years; and
 - (2) for public members, on February 1st of even years.
- (b) The terms for the Council members selected by the Texas State Board of Examiners of Professional Counselors and the Texas State Board of Examiners of Marriage and Family Therapists shall expire as follows:
 - (1) for professional members, on February 1st of even years; and
 - (2) for public members, on February 1st of odd years.
- (c) Member boards may reappoint members to serve on the Council without limitation as to the number of terms served.

- (d) A member selected to fill a vacancy on the Council holds office for the unexpired portion of the term.

Adopted to be effective: September 1, 2020

881.5. Conflicts of Interest and Recusals.

- (a) A Council or board member who has any personal or professional interest that might reasonably tend to influence the discharge of the member's duties in a matter pending before the agency, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Government Code. Should the required disclosure relate to a matter to be considered during a closed meeting, the member shall disclose the conflict during the closed meeting. A Council or board member may neither vote nor otherwise participate in any discussion or decision on a pending matter where the member's personal or professional interest might reasonably tend to influence the discharge of the member's duties. Any conflict disclosed by a board member shall be entered in the minutes or certified agenda of the meeting.
- (b) An individual who has any personal or professional interest that might reasonably tend to influence the discharge of the individual's duties while serving on a committee, temporary suspension or disciplinary review panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as to the Executive Director. The individual may neither vote nor 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 the individual's duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.
- (c) A Council or 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 Government Code regarding a complaint or eligibility proceeding previously heard by the member while serving on a temporary suspension panel or disciplinary review panel. A Council or board member who is disqualified under this subsection shall be recused from any voting or discussions on the matter, and the recusal shall be entered in the minutes or certified agenda of the meeting.
- (d) Any individual who is required to make a disclosure or is recused or restricted from voting or participating in some manner under this rule, shall refrain from influencing or attempting to influence the discussion or decision on a

matter in which the individual is prohibited from participating. The presiding officer or Executive Director may take reasonable steps to enforce this requirement, including requesting that the individual leave the room before beginning or continuing with a meeting, hearing, discussion, or vote.

- (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 Council or 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) Except as provided for in subsection (c) of this section, this rule shall not operate to preclude a Council member from voting or otherwise participating in any discussion or decision due solely to a member's service on an underlying member board.
- (g) It is presumed that the judgment of a reasonable person subject to this rule would not be materially affected because the individual holds a license issued by this agency or one of its member boards.
- (h) A person does not have an interest which is in conflict with the proper discharge of duties contemplated under this rule if any benefit or detriment accrues to the person, or any individual or group with whom the person is associated, to no greater extent than any other similarly situated person.

Adopted to be effective: September 1, 2020

881.6. Limited Delegation of Executive Council Authority to Board Members. By rule, policy, or custom, the Council may delegate to a member board any responsibility or authority not exclusively reserved to the Council in statute. The Council retains responsibility and oversight for any decisions or actions undertaken by a member board under this grant of authority. The Council may reverse, modify, or refer any decisions or actions taken by a member board under the authority of this rule back to that member board for further action or consideration.

Adopted to be effective: September 1, 2020

881.7. Unofficial Statements and Decisions. Statements and decisions made by an individual Council or board member, an advisory committee member, or a member of the agency staff are not binding on the Council, or its member boards, when conducting agency business, unless otherwise stated in these rules.

Adopted to be effective: September 1, 2020

881.8. Former Council or Board Members.

- (a) A Council or board member whose term has expired and who has ceased to serve will not be employed or utilized to represent the Council or one of its member boards for two years after the member's service has ended.
- (b) A former Council or board member may not represent that the member is an official or unofficial representative of the Council or one of its member boards. Any such representations are not binding in any way.
- (c) A former Council or board member may not disclose confidential or privileged information obtained during the member's service on the Council or board. Such disclosure is deemed unprofessional conduct and is grounds for disciplinary action.

Adopted to be effective: September 1, 2020

881.9. Prohibition Against Dual Office Holding.

- (a) The Executive Director and appointed members of the agency (i.e., Council and board members) may not accept an offer to serve in another non-elective office unless they first obtain from the Council or their respective member board, a finding that the member has satisfied Article XVI, §40, of the Texas Constitution.
- (b) The Council or board must make a written record of any finding under subsection (a) of this section. The finding must include any compensation that the member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment.

Adopted to be effective: September 1, 2020

881.10. Conflict Between Other Laws and Council.

- (a) In the event of a conflict between a Council 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.
- (b) In the event of a conflict between a rule in 22 TAC Part 41 and Parts 21, 30, 34, and 35; the rules in Part 41 shall prevail.

Adopted to be effective: September 1, 2020

881.11. Access to Agency Records by Appointed Members.

- (a) Each member of the Council is entitled to access all information and records written, produced, collected,

assembled, or maintained by the Council or a member board, including confidential information. The access granted under this subsection is limited to official agency business only.

- (b) Each member of an underlying board is entitled to access all information and records written, produced, collected, assembled, or maintained by the member's respective board, including confidential information. The access granted under this subsection is limited to official agency business only.
- (c) A request for access to information or records by a Council or board member must be directed to the Executive Director. If the request for access relates to the Executive Director, the request may be directed to the presiding officer for the Council and the General Counsel.
- (d) Notwithstanding the foregoing, a Council or board member may not access any confidential, non-public, or proprietary examination materials if the member intends to apply for or is a current applicant for licensure with this agency.

Adopted to be effective: September 1, 2020

881.12. Statutory or Rule References. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Adopted to be effective: September 1, 2020

881.13. Conduct and Decorum.

- (a) Persons having business with or interacting with the Council, member boards, or agency staff shall conduct themselves with proper dignity, courtesy, and respect. Disorderly or disruptive conduct will not be tolerated.
- (b) The presiding officers for the Council and member boards may, in their own discretion, exclude from a meeting or proceeding, a person who, with intent to prevent or disrupt an agency meeting or proceeding, obstructs or interferes with the meeting or proceeding by physical action or verbal utterance. A person excluded under this rule may be excluded for the remainder of the meeting or proceeding or for a shorter period of time as is deemed just and reasonable by the presiding officer.
- (c) Conduct or language directed at agency officials or staff by applicants or licensees that a reasonable person would find abusive or threatening is considered unprofessional conduct and may serve as grounds for a Council-initiated complaint and disciplinary action.

Adopted to be effective: September 1, 2020

Subchapter B. Rulemaking.

881.20. Rulemaking by the Executive Council.

- (a) The Council shall adopt rules necessary to perform its duties and implement Title 3, Subtitle I, Chapter 507 of the Occupations Code. When carrying out its rulemaking functions, the Council shall abide by the requirements of the Administrative Procedure Act found in Chapter 2001 of the Government Code.
- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.
- (c) The Council may propose and adopt a rule governing those matters set forth in §507.153(a) of the Occupations Code if a draft rule has been proposed by the member board for the profession. Member boards may not propose new draft rules or changes to rules except as authorized by §507.153(a).
- (d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g., §2001.024 of the Government Code) when proposing a new rule or changes to an existing rule. When submitting a new draft rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule.
- (e) When reviewing a draft rule proposed by a member board, the Council may:
 - (1) Request additional information relevant to the rule from the member board;
 - (2) Require the member board to conduct new or additional analysis of possible implications of the rule;
 - (3) Solicit public comment or hold public hearings, or alternatively, request the member board do so; and
 - (4) Make non-substantive, editorial changes to the rule as necessary.
- (f) Following the review of a draft rule submitted by a member board, the Council shall either accept the draft rule as proposed and initiate formal rulemaking proceedings or

return the draft rule to the member board for revision. When returning a rule for revision, the Council must include an explanation of the decision to reject the rule as proposed, and may recommend changes that would make the rule acceptable to the Council.

- (g) The Council shall, with regard to rules proposed pursuant to §507.153(a) of the Occupations Code, share with the appropriate member board any public comments received following publication of a proposed rule in the *Texas Register*. Following publication of a proposed rule and review of any public comments received, a member board shall suggest any changes needed to the proposed rule or vote to recommend adoption, tabling, or withdrawal of the rule and advise the Council of such. Thereafter, the Council may adopt the rule as proposed, withdraw or table the rule in accordance with the member board's recommendation, or return the rule to the member board for further revision. When returning a rule for revision, the Council must include an explanation of the decision to not adopt the rule as proposed, and may recommend any changes that would make the rule acceptable to the Council.
- (h) The Council may make non-substantive, editorial changes to a draft rule as necessary.
- (i) The Council shall consider each of the following factors when reviewing a draft rule submitted by a member board:
 - (1) Whether the proposed rule promotes a clearly articulated and affirmatively expressed policy as established by the legislature to displace competition with government action, or whether the proposed rule reflects the exercise of discretion or implied authority by a member board;
 - (2) Whether absence of the proposed rule poses a significant risk of harm or danger to the public health, safety, or welfare of the residents of the state that is easily recognizable and not remote or dependent on tenuous argument;
 - (3) Whether the proposed rule seeks to regulate activities or services requiring specialized skill or training and whether the public clearly needs and will benefit from the proposed rule;
 - (4) Whether the proposed rule would have the effect of directly or indirectly increasing the cost of mental health services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of the proposed rule;

- (5) Whether the proposed rule would significantly reduce market participation or competition in the state and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of the proposed rule; and
- (6) Whether the residents of the state are or may be effectively protected by other means

Adopted to be effective: September 1, 2020

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 economics, 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.
- (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.
- (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.

Adopted to be effective: September 1, 2020

Amended: February 9, 2021; September 19, 2021

Subchapter C. Personnel.

881.30. Executive Director.

- (a) The Council shall determine qualifications for and employ an Executive Director who shall be the Chief Executive Officer of the agency.
- (b) The duties of the Executive Director shall be to administer and enforce the applicable law, to assist in conducting Council meetings, and to carry out other responsibilities as assigned by the Council.
- (c) The Executive Director shall have the authority and responsibility for the operations and administration of the agency and such additional powers and duties as prescribed by the Council. As chief executive of the agency, the Executive Director shall be responsible for the management of all aspects of administration of the agency to include personnel, financial and other resources in support of the applicable law, rules, policies, mission and strategic plan of the agency. The Executive Director may delegate any responsibility or authority to an employee of the Council. Responsibility or authority granted to the Executive Director shall include an employee designated by the Executive Director, yet accountability to the Council for all management and activity rests with the Executive Director.
- (d) The Executive Director may implement any emergency orders or proclamations issued by the Governor to suspend or amend existing statutes and rules. The Executive Director will notify the Council of the actions taken to comply with the Governor's emergency orders or proclamations.

Adopted to be effective: September 1, 2020

881.31. Agency Staff Training and Education.

- (a) In accordance with the State Employee Training Act found at Government Code, Chapter 656, Subchapter C, agency staff may be permitted or required to attend training or education programs if those programs relate to the employee's duties or prospective duties, materially aid effective administration of the agency's functions, and serve an important public purpose.
- (b) The Council'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 agency, or to increase professional capabilities or competence directly related to the work of the agency.

- (d) An employee, prior to receiving training for three or more months, during which the employee does not perform the employee's regular duties, must enter into a written agreement with the Council to comply with the requirements of §656.103(a) of the Government Code. 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 Council 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 Council's own policies relating to employee reimbursement.

Adopted to be effective: September 1, 2020

881.32. Sick Leave Pool.

- (a) The Council 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 Council's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the 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 Council's personnel manual.

Adopted to be effective: September 1, 2020

Subchapter D. Contracts and Procurement.

881.40. Agency Contracts and Purchasing.

- (a) In accordance with §2155.076 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 TAC, Part 1, Chapter 20, Subchapter F, Division 3. All vendor protests under this rule must be submitted to the Council'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 Council for final determination. The Council shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Council's retention schedule.

- (b) In accordance with §2156.005 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 TAC, Part 1, Chapter 20, Subchapter C, Division 2.
- (c) In accordance with §2260.052 of the Government Code, the Council adopts by reference the rules of the Office of the Attorney General in 1 TAC 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 §2261.202 of the Government Code, 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.

Adopted to be effective: September 1, 2020

881.41. Use of Historically Underutilized Businesses (HUBS). In accordance with §2161.003 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter D, Division 1.

Adopted to be effective: September 1, 2020

APPLICATIONS AND EXAMINATIONS

Subchapter A. License Applications.

- 882.1. Application Process.** Applications for licensure are processed in the following manner:
- (1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.
 - (2) Applications are reviewed in the order in which they are received, unless the applicant qualifies for expedited processing under §55.005 of the Occupations Code. Applicants who qualify for expedited processing will have their applications processed as soon as practicable. The Council will notify applicants of any deficiency in their application.
 - (3) Applications for licensure under Chapters 502, 503, and 505 of the Occupations Code which are incomplete will be held open for one year from the date of receipt, after which, if still incomplete, they will expire. Applications for licensure under Chapter 501 of the Occupations Code which are incomplete will be held open for 90 days from the date of receipt, after which, if still incomplete, they will expire. If licensure is sought after an application has expired, a new application and filing fee must be submitted.
 - (4) Applications containing a substantive problem with an applicant's qualifications that cannot be resolved by reviewing staff shall proceed through the following chain of review until such matter is resolved to the agency's satisfaction:
 - (A) Reviewing staff's immediate supervisor;
 - (B) Licensing Manager;
 - (C) Executive Director;
 - (D) Committee established by the member board for the profession charged with addressing application or licensing matters; and
 - (E) Full member board for the profession

- (5) Once an application is complete, the applicant is either approved or denied to sit for any required examinations, or approved or denied licensure. Agency staff will send out a letter reflecting the agency's determination and instructions for the next steps needed, if any.

Adopted to be effective: September 1, 2020

882.2. General Application File Requirements.

- (a) To be complete, an application file must contain all information needed to determine an applicant's eligibility to sit for the required examinations, or the information and examination results needed to determine an applicant's eligibility for licensure. At a minimum, all applications for licensure must contain:
 - (1) An application in the form prescribed by the Council based on member board rules and corresponding fee(s);
 - (2) An official transcript from a properly accredited institution indicating the date the degree required for licensure was awarded or conferred. Transcripts must be received by the Council directly from the awarding institution, a transcript or credential delivery service, or a credentials bank that utilizes primary source verification;
 - (3) A fingerprint based criminal history record check through the Texas Department of Public Safety and the Federal Bureau of Investigation;
 - (4) A self-query report from the National Practitioner Data Bank (NPDB) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency in the sealed envelope in which it was received from the NPDB;
 - (5) Verification of the citizenship and immigration status information of non-citizen, naturalized, or derived U.S. citizen applicants through the DHS-USCIS Systematic Alien Verification for Entitlements Program (SAVE). Applicants must submit the documentation and information required by the SAVE program to the Council;
 - (6) Examination results for any required examinations taken prior to applying for licensure;
 - (7) Documentation of any required supervised experience, supervision plans, and agreements with supervisors; and

- (8) Any other information or supportive documentation deemed relevant by the Council and specified in its application materials.
- (b) The Council will accept examination results and other documentation required or requested as part of the application process from a credentials bank that utilizes primary source verification.

Adopted to be effective: September 1, 2020

882.3. Review and Appeal of License Denials.

- (a) If an application for licensure is denied at the staff or committee level, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for review by the member board. The written request must be received on or before the 30th day following the date of denial for the request to be timely. If a timely written request for review is not made, the denial is final.
- (b) If an application for licensure is denied by a member board, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for a hearing at SOAH. The Council must receive the written request on or before the 30th day following the date of denial for the request to be timely. If a timely request is made, the Council shall refer the contested case to SOAH for a hearing. If a timely written request is not made, the denial is final.
- (c) The Council shall render a final decision on an application for licensure based upon the record following an appeal at SOAH. The final decision shall be in writing and shall be signed by the presiding officer for the Council or the Executive Director.

Adopted to be effective: September 1, 2020

882.4. Assistance in Licensing Determinations.

- (a) Each member board shall be responsible for reviewing any licensing matters and questions raised or brought to it by agency staff regarding an application or renewal. The member boards may utilize committees to address application or licensing matters, and shall provide the Council with a recommendation as to any licensing matters or questions raised or brought to it by agency staff regarding an application or renewal.
- (b) The Council shall review all licensing matters for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its

judgment in licensing determinations for that of a member board where, in its sole determination, none of the aforementioned concerns are present.

- (c) The Council shall solicit input from and request the assistance of a member board when considering an application for issuance or renewal of a license if there are concerns about an applicant related to the standard of care or professional qualifications. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Adopted to be effective: September 1, 2020

882.5. Jurisprudence Examination Requirements. Applicants must take and pass the jurisprudence examination no more than 6 months prior to submitting an application for licensure to the Council

Adopted to be effective: September 1, 2020

882.6. Limitations on Number of Examination Attempts.

- (a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application.
- (b) Notwithstanding subsection (a) of this section, an applicant whose application is denied under this rule may reapply for licensure, but will not be allowed or approved to sit for the exam again until the applicant has submitted a detailed study plan designed to address the known or suspected areas of deficiency. The study plan must be approved by the relevant member board before authorization will be given to retake the examination.
- (c) Examinations which do not require pre-authorization by the Council to take, are not subject to this rule.

Adopted to be effective: September 1, 2020

882.7. Reasonable Accommodations for Persons with Disabilities and Dyslexia.

- (a) The Council shall comply with applicable provisions of the Americans with Disabilities Act (ADA) in its applications procedures by providing reasonable accommodations that do not violate or undermine the agency's mission or state law.
- (b) It is the responsibility of the individual applicant to inform the Council in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the agency. Only requests which give the Council sufficient notice and opportunity to provide

reasonable accommodations without disrupting the normal business of the agency will be considered.

- (c) Requests for reasonable accommodations under this rule must contain each of the following:
 - (1) a written description of the disability, as well as the functional limitations resulting from the disability;
 - (2) the specific accommodations requested;
 - (3) a description of any accommodations received in the past for the disability; and
 - (4) a formal medical or mental health diagnosis made or confirmed within the last five years by a licensed professional qualified to make the diagnosis describing the need for specific accommodations. The diagnosis must have been made or confirmed within the last 12 months for psychiatric disabilities. This requirement does not apply to physical or sensory disabilities of a permanent or unchanging nature.
- (d) The Council will provide reasonable examination accommodations to an applicant who has been diagnosed as having dyslexia, as defined in §51.970 of the Education Code. When requesting reasonable examination accommodations under this subsection, the applicant must comply with subsection (c) of this section.

Adopted to be effective: September 1, 2020

882.8. 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 Council 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 Council may extend any time periods for completing an examination, as needed when scheduling an alternate examination date.

Adopted to be effective: September 1, 2020

882.9. Established Application Processing Times.

- (a) The Council shall publish the minimum, maximum, and median times for processing applications during the preceding 12-month period on its website, together with a

justification for each of these periods. These figures will be updated on an annual basis.

- (b) Applicants whose application processing time exceeds 90 days or the maximum processing time published on the agency's website, whichever is greater, may submit a written complaint to the Executive Director requesting a timely resolution of any dispute arising from the delay.
- (c) The Executive Director shall, upon receipt of a proper complaint, review the matter to determine whether the agency has good cause, as that term is defined in §2005.004 of the Government Code, for exceeding the maximum application processing time. If the maximum application processing time was exceeded and good cause is not found, the Council shall refund any application fee paid in connection with the delayed application.
- (d) There is no appeal of the determination made by the Executive Director under this rule. A complaint is waived if not filed within 30 days of licensure.

Adopted to be effective: September 1, 2020

882.10. Applicants with Pending Complaints. The Council may hold an application in abeyance up to 180 days if there is a complaint pending against the applicant concerning an alleged violation listed in §507.301 of the Occupations Code. A final decision on the application may not be rendered until the Council has made a final determination on the pending complaint. The applicant will be permitted to take all required exams while the complaint is pending, but will not be licensed unless approved by the Council.

Adopted to be effective: September 1, 2020

882.11. Applicants with Foreign Degrees

- (a) An applicant with a foreign degree must submit an official transcript and certified translation when applying for licensure. The official transcript must be translated to English by the issuing institution, a translator that is certified by the American Translators Association, a reputable foreign translator or translation service, or a U.S. college or university official.
- (b) An applicant with a foreign degree must have the degree evaluated to determine if it is comparable to the degree required for the particular license sought. Foreign degree evaluations must be sent directly to the Council from the evaluation service, submitted by the applicant in the sealed envelope in which they are received from the evaluation service, or be submitted as directed by agency staff.

- (c) Foreign degree evaluations must be conducted by a foreign degree evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or the Association of International Credential Evaluators, Inc. (AICE). Alternatively, the Council will accept foreign degree evaluations from the National Register of Health Service Psychologists for persons applying under Chapter 501 of the Occupations Code and the International Social Work Degree Recognition and Evaluation Service for persons applying under Chapter 505 of the Occupations Code.
- (d) The Council retains the exclusive authority to determine whether a foreign degree is comparable to the degree required for licensure.

Adopted to be effective: September 1, 2020

Amended: September 19, 2021

882.12. Refusal to Issue License for Failure to Pay Child Support.

- (a) The Council shall, in accordance with §232.0135 of the Family Code, refuse to issue a license to an individual if the Council receives notice from a child support agency that the applicant has failed to pay child support under a support order for six months or more and the child support agency requests the Council to deny issuance of a license.
- (b) Following receipt of notice from a child support agency, the Council may not issue a license until the child support agency has notified the Council that the applicant has met one or more of the requirements set out in §232.0135(b) of the Family Code.
- (c) The Council may charge the applicant a fee equal to the application fee for a refusal under this rule.

Adopted to be effective: September 1, 2020

882.13. Protections Based on Affiliation with Religious Organizations.

In accordance with Chapter 2400 of the Government Code, the Council may not deny an application or renewal of a license based wholly or partly on a person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

Adopted to be effective: September 1, 2020

Subchapter B. License.

882.20. Form of License.

- (a) Each member board shall be responsible for the content and design of its licenses, subject to the approval of the Council.

A license issued by the Council shall prominently reflect the member board for the profession and reference the board being a member of the Council.

- (b) A license shall include the full legal name of the license holder at the time of licensure and the unique license number assigned to the license.

Adopted to be effective: September 1, 2020

882.21. License Statuses.

- (a) Active Status. Any licensee with a license on active status may practice pursuant to that license, subject to any restrictions imposed by the Council. Active status is the only status under which a licensee may engage in the practice of the licensee's respective profession.
- (b) Inactive Status.
 - (1) A licensee with an unrestricted active license may elect inactive status through the Council's online licensing system. A licensee who elects inactive status must pay the associated fee.
 - (2) A licensee with an inactive license is not required to comply with continuing education requirements while the 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 the inactive status each renewal period. Licensees may renew their inactive status through the Council's online licensing system by completing the online renewal requirements and paying the associated fee.
 - (5) 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.
 - (6) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Council'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.

- (7) Any licensee reactivating a license from inactive status must provide proof of completion of the continuing education requirements for renewal of that particular license before reactivation will occur.
- (8) A licensee wishing to reactivate a license that has been on inactive status for four years or more must take and pass the relevant jurisprudence exam with the minimum acceptable score, unless the licensee holds another license on active status within the same profession.
- (c) Delinquent Status. A licensee who fails to renew a license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. A licensee may not engage in the practice of the licensee's respective profession under a delinquent license. The Council may sanction a delinquent licensee for violations of its rules.
- (d) Restricted Status. Any license that is currently suspended, on probated suspension, or is currently required to fulfill some requirements in an agency order is a restricted license.
- (e) Retirement Status. A licensee who is on active or inactive status may retire the license by notifying the Council in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire the license by notifying the Council in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire the license. A licensee who retires a license shall be reported to have retired in good standing.
- (f) Resignation Status. A licensee may resign only upon express agreement with the Council.
- (g) Expired Status. A license that has been delinquent for more than 12 consecutive months or any inactive license that is not renewed or reactivated is considered to be expired.
- (h) Revoked Status. A revoked status results from a license being revoked pursuant to an agency order.

Adopted to be effective: September 1, 2020

Amended: June 1, 2021

882.22. Reinstatement of a License.

- (a) A person whose license 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 Council.
- (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. A person whose license was revoked under §108.053 may apply for reinstatement of the license if the person meets the requirements of §108.055 of the Occupations Code.
- (d) A person seeking reinstatement of a license shall appear before the Council or member board to answer any questions or address any concerns raised by the person's 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 the application for reinstatement.
- (e) The Council may approve or deny an application for reinstatement, and in the case of a denial, the Council may also set a reasonable period that must elapse before another application may be filed. The Council may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.
- (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) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency in the sealed envelope in which it was received from the NPDB;
 - (3) a fingerprint based criminal history check which reflects no disqualifying criminal history;
 - (4) passage of any examinations required by a member board;
 - (5) documentation of any continuing education required by a member board; and
 - (6) submission of any other documentation or information requested in the application or which the Council or a

member board may deem necessary in order to ensure the public's safety.

- (g) The Council will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:
 - (1) circumstances surrounding the expiration, revocation, or resignation of the license;
 - (2) conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;
 - (3) lapse of time since the expiration, revocation, or resignation of the license;
 - (4) compliance with all terms and conditions imposed by the Council or a member board in any previous order; and
 - (5) applicant's present qualification to practice the regulated profession based upon the history of related employment, service, education, or training, as well as the applicant's continuing education since the expiration, revocation, or resignation of the license.
- (h) Notwithstanding time limits on original applications and examinations found elsewhere in these rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass all required examinations within the period specified by the Council. Failure to do so shall result in the application for reinstatement expiring.

Adopted to be effective: September 1, 2020

882.23. License Required to Practice.

- (a) A person may not engage in or represent that the person is engaged in the practice of marriage and family therapy, professional counseling, psychology, or social work within this state, unless the person is licensed or otherwise authorized to practice by law.
- (b) A person is engaged in the practice of marriage and family therapy within this state if any of the criteria set out in §502.002(6) of the Occupations Code occurs either in whole or in part in this state.
- (c) A person is engaged in the practice of professional counseling within this state if any of the criteria set out in §503.003(a) of the Occupations Code occurs either in whole or in part in this state.
- (d) 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 Occupations Code occurs either in whole or in part in this state.

- (e) A person is engaged in the practice of social work within this state if any of the criteria set out in §505.0025 of the Occupations Code occurs either in whole or in part in this state.

882.24. Authorized Practice of Marriage and Family Therapy Without a License. Notwithstanding Rule §882.23 of this chapter, the activities or services described in §502.004 of the Licensed Marriage and Family Therapist Act are exempt from the Council's jurisdiction and do not require a license.

Adopted to be effective: September 1, 2020

882.25. Authorized Practice of Professional Counseling Without a License. Notwithstanding Rule §882.23 of this chapter, the activities or services described in Subchapter B of the Licensed Professional Counselor Act, together with the use of titles and descriptions of persons as contemplated therein, are exempt from the Council's jurisdiction and do not require a license.

Adopted to be effective: September 1, 2020

882.26. Authorized Practice of Psychology Without a License.

- (a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.
- (b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council'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.
- (c) 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 Council 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 a minimum of 2 evaluations 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.

Adopted to be effective: September 1, 2020

882.27. Authorized Practice of Social Work Without a License.

Notwithstanding Rule §882.23, the activities or services described in §505.003 of the Social Work Practice Act are exempt from the Council's jurisdiction and do not require a license.

Adopted to be effective: September 1, 2020

Subchapter C. Duties and Responsibilities.

882.30. Display of License.

- (a) A licensee must display an official copy of the holder's license in a prominent place in the office, building, complex, or facility where services are delivered. An official copy of a

license is the original or a copy issued by the Council bearing the state agency's seal.

- (b) In lieu of subsection (a) of this section, a person licensed under Chapter 501 or 505 may provide to a patient or client written notification of the holder's license number accompanied by instructions for verification of same.

Adopted to be effective: September 1, 2020

882.31. Advertising Restriction. Licensees may 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 what they omit concerning their own training, experience, supervision status, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.

Adopted to be effective: September 1, 2020

882.32. Duty to Update Name and Address.

- (a) Applicants and licensees must update their name, main address, business address, email address, and phone number in the Council's online licensing system within 30 days of a change. The main address entered by an applicant or licensee must be capable of receiving mail addressed to the applicant or licensee from the agency. It is the responsibility of the individual to ensure the agency has the correct contact information for that individual.
- (b) Official agency correspondence will be sent to an applicant's or licensee's main address, unless otherwise required by law. The street address portion of an applicant's or licensee's main address will not be displayed in results returned from the online licensee search function, but will continue to be publicly available via the Public Information Act. Applicants and licensees may also enter a business address in the agency's online licensing system which will be displayed, without redaction, in public search results.
- (c) 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 reflecting the change of name.

Adopted to be effective: September 1, 2020

882.33. Disclosure of Proprietary Examination Materials of Information Prohibited. It is considered unprofessional conduct and grounds for disciplinary action, including denial of licensure or renewal, for any applicant or licensee to disclose the contents or

any proprietary materials or information from the examinations utilized by the Council.

Adopted to be effective: September 1, 2020

882.34. Filing a False or Misleading Information with the Council.

- (a) Applicants. Applicants are prohibited from providing false or misleading statements, information, or omissions in their applications, documents, and communications with the Council or member boards. For an infraction of this type, the Council may agree to process an application or other document pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Council may deny licensure.
- (b) Licensees. The Council will open a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application, renewal, document, or other communication with the Council. For an infraction that led to the licensure or renewal of an unqualified person or a change in license status, the Council may revoke the license or deny any future renewal of the license.

Adopted to be effective: September 1, 2020

882.35. Required Profile Information. Pursuant to §2054.2606 of the Government Code, all licensed psychologists must establish and maintain a public profile within the profile system maintained by the Council. The licensee's profile must contain all of the following information:

- (1) the name of the license holder and the address and telephone number of the license holder's primary practice location;
- (2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to disabled persons, as defined by federal law;
- (3) the type of language translating services, including translating services for a person with impairment of hearing, that the license holder provides for patients, clients, users, customers, or consumers, as applicable;
- (4) if applicable, insurance information, including whether the license holder 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 license holder, as required by the licensing entity;
- (6) any specialty certification held by the license holder;

- (7) the number of years the person has practiced as a license holder; and
- (8) if applicable, any hospital affiliation of the license holder.

Adopted to be effective: September 1, 2020

882.36. Compliance with State and Federal Law. Licensees comply with all applicable state and federal laws affecting the practice of marriage and family therapy, professional counseling, psychology, or social work including, but not limited to:

- (1) Health and Safety Code, Chapter 611, Mental Health Records;
- (2) 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) Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;
- (4) Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;
- (5) Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;
- (6) Code of Criminal Procedure, Chapter 46B, Incompetency to Stand Trial, and Chapter 46C, Insanity Defense;
- (7) Occupations Code, Chapter 102, Solicitation of Patients; Chapter 104, Healing Art Practitioners; Chapter 105, Unprofessional Conduct; and Chapter 113, Mental Health Telemedicine and Telehealth Services;
- (8) Education Code, Chapter 51, Duty to Report Sexual Harassment and Assault, Dating Violence, and Stalking; and
- (9) 18 United States Code §1347 Health Care Fraud.

Adopted to be effective: September 1, 2020

Subchapter D. Criminal History and License Eligibility.

882.40. Criminal History Background Checks.

- (a) Before the Council will issue a license, an applicant must undergo a fingerprint-based criminal history record check.
- (b) The Council may require a licensee to obtain an updated fingerprint-based criminal history record check at any time.
- (c) A licensee who was not required to undergo a fingerprint based criminal history record check as a condition of licensure, must undergo a fingerprint based criminal history check if directed by the Council as a condition for renewal of a license. A licensee may fulfill all other renewal requirements, but a report must be received by the Council from the Texas Department of Public Safety and the Federal Bureau of Investigation before a license will be renewed.
- (d) Applicants and licensees who hold a license issued by the Council or one of its member boards, and who underwent a fingerprint-based criminal history record check as part of the licensing process for that license, do not need to undergo another checks.

Adopted to be effective: September 1, 2020

882.41. Criminal History Evaluation.

- (a) In compliance with Chapter 53 of the Occupations Code, the Council will provide criminal history evaluation letters.
- (b) A person may request the Council 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 agency and the person has reason to believe that the person may be ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.
- (c) The requestor must submit to the Council a completed application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions, deferred adjudications, or other final dispositions which may form the basis for the person's ineligibility.
- (d) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.
- (e) The Council has the authority to investigate a request for a criminal history evaluation letter and may require the requestor to provide additional information about the convictions and other dispositions.
- (f) The Council will provide a written response to the requestor within 90 days of receipt of the request, unless a more

extensive investigation is required or the requestor fails to comply with the Council's investigation.

- (g) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the Council's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

Adopted to be effective: September 1, 2020

882.42. Ineligibility Due to Criminal History.

- (a) The Council may revoke or suspend a license, disqualify a person from receiving or renewing a license, or deny 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:
 - (1) is listed in Article 42A.054 of the Code of Criminal Procedure;
 - (2) was a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure; or
 - (3) directly relates to the duties and responsibilities of a licensee.
- (b) In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency shall consider the factors listed in §53.022 of the Occupations Code. Each member board shall determine which crimes are directly related to the duties and responsibilities of its licensees.
- (c) If the agency determines that a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency must consider the factors listed in §53.023 of the Occupations Code when determining whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination. It shall be the responsibility of the applicant or licensee to provide documentation or explanations concerning each of the factors listed in the law. Any documentation or explanations received will be considered by the agency when deciding whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination.
- (d) Notwithstanding any schedule of sanctions adopted by the Council or a member board, the Council shall:
 - (1) revoke a license due to a felony conviction under §35A.02 of the Penal Code, concerning Medicaid fraud,

- in accordance with §36.132 of the Human Resources Code;
- (2) revoke or suspend a license for unprofessional conduct in accordance with §105.002 of the Occupations Code; and
 - (3) revoke a license due to a license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.
- (e) In accordance with Chapter 108 of the Occupations Code, an application for licensure as a psychologist or social worker will be denied if the applicant:
- (1) is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure;
 - (2) has been previously convicted of or placed on deferred adjudication for the commission of a felony offense involving the use or threat of force; or
 - (3) has been previously convicted of or placed on deferred adjudication for the commission of an offense:
 - (A) under §§22.011, 22.02, 22.021 or 22.04 of the Penal Code, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections;
 - (B) during the course of providing services as a health care professional; and
 - (C) in which the victim of the offense was a patient.
- (f) A person whose application was denied under subsection (e) of this section may reapply for licensure if the person meets the requirements of §108.054 of the Occupations Code.
- (g) In accordance with §108.053 of the Occupations Code, the Council shall revoke the license of a psychologist or social worker if the licensee is:
- (1) convicted or placed on deferred adjudication for an offense described by subsection (e)(2) or (3) of this section; or
 - (2) required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure.
- (h) The Council will provide notice to a person whose application has been denied due to criminal history as required by §53.0231 and §53.051 of the Occupations Code.

Adopted to be effective: September 1, 2020

Subchapter E. Continuing Education.

882.50. Continuing Education and Audits.

- (a) All persons issued a license by the Council are obligated to continue their professional education by completing a minimum amount of continuing education during each renewal period that they hold a license from this agency. The specific continuing education requirements for a license holder will be determined by the member board authorized to set those requirements.
- (b) The Council conducts two types of audits regarding continuing education. Licensees shall comply with all agency requests for documentation and information concerning compliance with continuing education requirements.
 - (1) Random audits. Each month, 5% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the agency's continuing education requirements. The agency will notify a licensee of the audit. Upon receipt of an audit notification, a licensee must submit continuing education documentation through the agency's online licensing system, or by email, or regular mail before a license will be renewed.
 - (2) Individualized audits. The Council may also conduct audits of a specific licensee's compliance with its continuing education requirements at any time the agency determines 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.

Adopted to be effective: September 1, 2020

Amended: June 1, 2021

**Subchapter F. Licensing Provisions Related To
Military Service Members, Veterans, and
Military Spouses.**

**882.60. Special Provisions Applying to Military Service Members,
Veterans, and Spouses.**

- (a) The Council adopts by reference the definitions set forth in Chapter 55 of the Occupations Code.
- (b) A license may be issued to a military service member, military veteran, or military spouse upon proof of one of the following:

- (1) the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license sought in this state; or
 - (2) within the five years preceding the application date, the applicant held the license sought in this state.
- (c) An applicant applying as a military spouse must submit proof of marriage to a military service member.
 - (d) Each member board shall develop and maintain a method for determining substantial equivalency under subsection (b) of this section.
 - (e) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements in subsection (b) of this section, the jurisprudence examination, and the fingerprint criminal history background check, 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 relevant member board or its designated application or licensing committee and consider the board's or committee's input and recommendations. In the event the Executive Director does not follow a recommendation of the board or committee, the Executive Director must submit a written explanation to the board or 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 a disqualifying criminal history.
 - (f) Each member board may develop and maintain alternate methods for a military service member, military veteran, or military spouse to demonstrate competency in meeting the requirements for obtaining a license.
 - (g) Each member board shall develop and maintain a method for applying credit toward license eligibility requirements for applicants who are military service members or military veterans with verifiable military service, training, or education. An applicant may not receive credit toward licensing requirements under this subsection if the applicant holds another license that has been restricted, or the applicant has a disqualifying criminal history.
 - (h) The initial renewal date for a license issued pursuant to this rule shall be set in accordance with the agency's rule governing initial renewal dates.

Adopted to be effective: September 1, 2020

882.61. Special Licensing Provisions for Military Spouses.

- (a) A military spouse shall be issued a license to marriage and family therapy, professional counseling, practice psychology, or social work if the person meets each of the following requirements:
 - (1) the spouse notifies the Council on an agency approved form, of the spouse's intent to practice a particular profession in this state;
 - (2) the spouse provides verification of licensure in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for licensure in this state;
 - (3) the spouse submits a copy of the law reflecting the current licensing standards for the relevant profession in the state where the spouse is licensed, with the relevant portions highlighted for easy reference;
 - (4) the spouse submits proof of residency in this state and a copy of the spouse's military identification card; and
 - (5) the Council provides confirmation to the spouse that it has verified the spouse's license in the other jurisdiction and that the spouse is authorized to practice a particular profession.
- (b) The Council shall determine substantial equivalency based upon the determinations made by the member boards under subsection §882.60(d) of this chapter.
- (c) The Council may rely upon the following when verifying licensure under this subsection: official verification received directly from the other jurisdiction, a government website reflecting active licensure and good standing, or verbal or email verification directly from the other jurisdiction.
- (d) A military spouse issued a license under this rule is subject to all laws and regulations in the same manner as a regularly licensed provider.
- (e) A license issued under this rule is valid while the holder's spouse is stationed at a military installation in this state or for three years from the date of issuance, whichever is less. A license issued under this rule cannot be renewed or extended.

Adopted to be effective: September 1, 2020

Subchapter G. Emergency Temporary License.

882.70. Emergency Temporary License.

- (a) The Council shall issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under §418.014 and issues a proclamation in accordance with Government Code §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 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 temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice, marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (f) An emergency temporary license may be renewed in thirty (30) day increments 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 temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or

- provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (h) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Adopted to be effective: September 1, 2020

RENEWALS

Subchapter A. General Provisions.

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) 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.
- (h) 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.

Adopted to be effective: September 1, 2020

883.2. 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 from a member board, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.

Adopted to be effective: September 1, 2020

883.3. Nonrenewal for Failure to Pay Child Support.

- (a) The Council shall, in accordance with §232.0135 of the Family Code, refuse to renew a license if the Council receives notice from a child support agency that the licensee has failed to pay child support under a support order for six months or more and the child support agency requests the Council to deny the renewal of an existing license.
- (b) Following receipt of notice from a child support agency, the Council may not renew a license until the child support agency has notified the Council that the licensee has met one or more of the requirements set out in §232.0135(b) of the Family Code.
- (c) The Council may charge the licensee a fee equal to the renewal fee for a denial under this rule.

Adopted to be effective: September 1, 2020

Subchapter B. Renewal Provisions For Military Personnel.

883.10. Renewal Terms for Military Personnel on Active Duty.

- (a) Licensees serving on active duty, as defined by §55.001 of the Occupations Code, may request a waiver from the continuing education requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Council prior to their renewal date each renewal period, and provide the Council with official verification of active duty status during their renewal period, will be granted a waiver from the continuing education 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.

Adopted to be effective: September 1, 2020

COMPLAINTS AND ENFORCEMENT

Subchapter A. Filing A Complaint.

884.1. Timeliness of Complaints.

- (a) A complaint not involving sexual misconduct will be considered timely if brought within five years of the date of the termination of professional services.
- (b) A complaint alleging sexual misconduct will be considered timely if brought within seven years after the date of termination of services or within five years of the patient, client or recipient of services reaching the age of majority, whichever is greater.
- (c) A complaint arising out of a matter required to be reported to the Council pursuant to rule §884.32 of this chapter, will be considered timely if brought within five years of the date the matter is reported to the Council. Limitations shall not begin to run for any such complaint until the matter is reported in accordance with Council rules.

Adopted to be effective: September 1, 2020

884.2. Standardized Complaint Form.

All complaints must be submitted on the Council-approved complaint form. The complaint form shall be obtained free of charge from the Council's website or by requesting a copy from the Council.

Adopted to be effective: September 1, 2020

884.3. Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations.

- (a) A person who seeks to file a complaint alleging a statutory or rule violation arising out of or related to a court ordered evaluation (e.g. child custody evaluation, adoption evaluation, competency or insanity evaluation, psychological evaluation) must, in addition to submitting a Council-approved complaint form, comply with the requirements of this rule when filing a complaint. This rule does not apply to evaluations conducted in administrative proceedings before a state or federal agency.
- (b) A complaint subject to this rule may not be filed prior to entry of judgment or final order by the trial court, or alternatively, prior to dismissal of the case. A complaint received by the Council prior to these specified events will be dismissed by staff as premature. A complaint dismissed as premature may be resubmitted as a new complaint upon the occurrence of one of these events.

- (c) A complaint subject to this rule will be considered timely filed if brought within the time period specified by the general rule governing timeliness of complaints or within one year of the relevant event specified in subsection (b) of this section, whichever is greater.
- (d) A complaint subject to this rule must include the following documentation or information:
 - (1) A copy of the court order appointing the licensee to conduct the evaluation, or alternatively, a transcript or excerpt therefrom or written statement from an attorney-of-record in the case reflecting the licensee's appointment;
 - (2) A copy of the licensee's expert report, or a statement that no such report was produced or provided;
 - (3) A copy of any judgment, final order, or dismissal entered by the trial court; and
 - (4) A copy of any documents provided by the licensee describing the costs of services, the nature of the services provided, as well as any limitations associated with those services, or a statement that no such documents were provided.
- (e) A complaint that does not substantially comply with subsection (d) of this section shall be dismissed by agency staff. A complaint may be held open for no more than 30 days following notice to the complainant regarding any such deficiency, after which, agency staff shall dismiss the complaint if the deficiency is not cured.
- (f) A complaint subject to this rule shall be dismissed unless the complainant can show:
 - (1) The licensee was disqualified or struck as an expert witness by the trial court;
 - (2) The licensee's opinion or inferences (i.e. testimony or report) complained of were ruled inadmissible by the trial court;
 - (3) A curriculum vitae and written report by an expert that provides a fair summary of the expert's opinions regarding the applicable law governing the licensee's expert opinion or report (i.e. standard of care) and the manner in which the licensee failed to meet the requirements of the applicable law. The report must come from an expert qualified to render an expert opinion under Texas law on the relevant subject;
 - (4) A letter from an attorney licensed to practice law in Texas setting forth the applicable law governing the licensee's expert opinion or report and reflecting an

- opinion as to the manner in which the licensee failed to meet the requirements of the applicable law; or
- (5) The agency would be likely to prevail at a hearing before SOAH based upon the information provided.

Adopted to be effective: September 1, 2020

884.5. Complaints Alleging Violation of Court Orders or Education Law.

- (a) A person who seeks to file a complaint alleging a violation of a court order in connection with the delivery of services by a licensee must, in addition to submitting a Council-approved complaint form, submit a certified copy of the court order violated and a certified copy of the judgment, order, or minutes of the court reflecting a finding of violation by the licensee. A complaint subject to this rule not in strict compliance with this requirement will be dismissed by agency staff.
- (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 19 TAC §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, limitations shall not begin to run until all of the administrative remedies referenced in paragraph (1) of this subsection have been exhausted.
 - (3) Notwithstanding paragraph (1) of this subsection, an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by paragraph (1) of this subsection 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.
 - (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 paragraph (1) of

this subsection, nor shall it operate to limit the Council's ability to bring a complaint for any matter within the agency's jurisdiction.

Adopted to be effective: September 1, 2020

884.6. Protections Based on Affiliation with Religious Organizations.

In accordance with Chapter 2400 of the Government Code, the Council and member boards may not initiate or take disciplinary action, including eligibility proceedings, against applicants or licensees based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

Adopted to be effective: September 1, 2020

Subchapter B. Investigations and Disposition of Complaints.

884.10. Investigation of Complaints.

- (a) The following priority rating system shall serve to distinguish between categories of complaints. The priority rating system is as follows:
 - (1) cases involving a probability of imminent physical harm to the public or a member of the public;
 - (2) cases involving sexual misconduct;
 - (3) cases involving applicants for licensure; and
 - (4) cases involving all other violations of state or federal law.
- (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 Council not later than the 30th day after the date the complaint is received. 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) The Council may accept, but is not obligated to investigate, a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.
- (d) A complainant may explain the allegations made in the complaint by attaching or including with the complaint any evidence the complainant believes is relevant to a

determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.

- (e) A review will be conducted upon receipt of a complaint to determine if the Council has jurisdiction over the complaint, and if so, whether the complaint states an allegation which, if true, would constitute a violation of the Council's rules or other law within the jurisdiction of the Council.
- (f) Complaints that do not state a violation of a law within the jurisdiction of the Council shall be dismissed. If the complaint alleges a violation of a law within the jurisdiction of another agency, the complaint will be referred to that agency as required or allowed by law.
- (g) Complaints that state a violation of a law within the jurisdiction of the Council shall be investigated by an investigator assigned by the Enforcement Division.
- (h) Licensees will receive written notice of any alleged complaint(s), including specific information regarding any violation(s) encountered. Notice to a licensee is effective and service is complete when sent by registered or certified mail to the licensee's address of record at the time of the mailing.
- (i) 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 has occurred.
- (j) The Enforcement Division Manager (or the manager's designee) and legal counsel shall review the investigation report to determine if there is probable cause that a violation occurred.
- (k) A complaint for which the staff determines probable cause exists shall be referred for an informal conference by agency staff or a member board's Disciplinary Review Panel. Agency staff shall send the respondent notice of the date and time of the informal conference.
- (l) A complaint for which staff or a Disciplinary Review Panel determines that probable cause does not exist shall be referred for dismissal.
- (m) 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.

- (n) If a complainant or respondent are represented by an attorney, any notice or service required by law shall be made upon the attorney at the attorney's last known address.

Adopted to be effective: September 1, 2020

884.11. Informal Conferences.

- (a) The purpose of an informal conference shall be to provide the complainant with an opportunity to be heard, the respondent with an opportunity to show compliance with the law, and for the agency staff or Disciplinary Review Panel to make a recommendation regarding the informal disposition of the complaint. An informal disposition may be made of any complaint by stipulation, conditional letter of agreement, agreed or consent order, or dismissal.
- (b) Agency staff may conduct an informal conference if counsel for the agency reasonably believes that expert testimony is not required to prove a violation of a standard of care or the scope of practice for the profession. Agency staff shall exercise reasonable control over the mode and order of the appearance by the parties, the presentation of witnesses and evidence, and the overall order and decorum during the proceedings. Complainants and respondents will be provided an opportunity to be heard by staff, at a time separate and apart from the other.
- (c) A Disciplinary Review Panel shall consist of not more than three board members selected by the member board. The panel shall confer with each other and select a chair for the informal conference. The panel chair shall exercise reasonable control over the mode and order of the appearance by the parties, the presentation of witnesses and evidence, and the overall order and decorum during the proceedings. Complainants and respondents will be provided an opportunity to be heard by the panel, at a time separate and apart from the other.
- (d) Complainants and respondents may appear with legal counsel at informal conferences and shall be provided with an opportunity to present witnesses and any evidence they believe is relevant to a determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.
- (e) Complainants and respondents are encouraged to attend informal conferences, but attendance is voluntary.
 - (1) Failure by a respondent to attend an informal conference does not constitute professional misconduct or failure to cooperate with a Council

investigation, but a respondent is not entitled to a new or additional informal conference if agency staff or the panel makes a disciplinary recommendation regarding the licensee in absentia.

- (2) Failure by a complainant to attend an informal conference may result in a recommendation for dismissal of the complaint.
- (f) A complaint which is not dismissed or resolved by agreement following an informal conference, shall be filed as a contested case with the State Office of Administrative Hearings.
- (g) An attorney for the agency must be present at all informal conferences.
- (h) Informal conferences are not open meetings subject to Chapter 551 of the Government Code and no formal record of the proceedings shall be made or maintained.
- (i) The Council finds and declares that informal conferences are part of the confidential complaint and investigation process, and as such, the Disciplinary Review Panel and agency staff shall take any and all steps necessary to ensure the confidentiality of informal conferences in accordance with §507.205 of the Occupations Code.

Adopted to be effective: September 1, 2020

884.12. Complaint Disposition.

- (a) The Council must approve and enter all final orders following a contested case before SOAH or where no agreement exists between the agency and the respondent regarding the disposition of a contested enforcement related matter. However, each member board shall be responsible for reviewing complaints involving the standard of care, ethical guidelines, or scope of practice following a contested case before SOAH and making a recommendation to the Council regarding the final disposition. A recommendation from a member board must include any recommended modifications to the findings of fact and conclusions of law in the PFD, as well as the recommended sanction. A proposed final order reflecting a member board's recommendations shall satisfy the requirements of this rule.
- (b) The Council shall review recommendations from member boards for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its judgment in contested enforcement matters for that of a member board where, in the Council's determination, none of the aforementioned concerns are present.

- (c) The Council may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.
- (d) Each member board is authorized to dismiss complaints and approve and enter agreed final orders and informal dispositions; Council ratification is not required. The Executive Director shall report the number of dismissals and agreed orders entered under this rule at Council meetings.
- (e) Disposition by the Executive Director.
 - (1) The Executive Director is authorized to:
 - (A) dismiss a complaint if the investigator and legal counsel agree that a violation did not occur or that the agency lacks jurisdiction over the complaint;
 - (B) dismiss a complaint recommended for dismissal by a Disciplinary Review Panel;
 - (C) dismiss a complaint following a contested case hearing before SOAH where the ALJ finds no violation of the law has occurred;
 - (D) accept the voluntary resignation of a license;
 - (E) offer, approve, and enter agreed orders if the disciplinary sanction imposed complies with the disciplinary guidelines and relevant schedule of sanctions; and
 - (F) enter an order suspending a license upon receipt of an order suspending a license issued under Chapter 232 of the Family Code. Council ratification is not required.
 - (2) The Executive Director shall report the number of agreed orders, dismissals, resignations, and suspensions ordered, along with a brief summary of the basis for each, to the Council and relevant member board at the next regular meeting.
 - (3) The Executive Director must, when offering an agreed order or resignation order prior to an informal conference, advise the respondent of the right to an informal conference and that the matter will be set for an informal conference if requested or if an informal disposition cannot be agreed upon.
- (f) Any person who files a complaint will be notified of the disposition of the complaint. A person who filed a complaint that is dismissed will be notified of the dismissal by letter and the letter will reflect the legal basis or reason for the

dismissal. A person who filed a complaint resulting in disciplinary action will be sent a copy of the Council's final order.

Adopted to be effective: September 1, 2020

Subchapter C. Disciplinary Guidelines and Schedule of Sanctions.

884.20. Disciplinary Guidelines and General Schedule of Sanctions.

- (a) Purpose. These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Occupations Code, Chapter 507, and the Council's rules. The 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 disciplinary sanctions outlined in the applicable schedule of sanctions shall apply to cases involving a single violation, and in which there are no aggravating or mitigating factors.
 - (2) Multiple Violations. The Council may impose more severe or restrictive sanctions for multiple violations.
 - (3) Aggravating and Mitigating Factors. The Council may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors that are found to apply in a particular case.
 - (4) The standard and minimum disciplinary sanctions outlined below are applicable to persons who are being sanctioned for the first time. The Council may consider more severe or restrictive sanctions if the persons have had sanctioned assessed against them previously.
 - (5) The maximum disciplinary sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to \$5,000 per violation. In accordance with §507.352 of the Occupations Code, each day the violation continues or occurs is a separate violation.
 - (6) Each violation constitutes a separate offense, even if arising out of a single act.
 - (7) Failure to list a specific violation or Council rule in this rule does not prevent the Council from taking disciplinary action for such a violation.

- (8) If a sanction for a violation of state or federal law is not listed in this rule, or specifically stated elsewhere, the sanction shall be a reprimand and administrative penalty.
- (9) Notwithstanding paragraph (8) of this subsection, the Council will evaluate and determine the appropriate sanction for a licensee with a qualifying criminal conviction in accordance with §53.021 of the Occupations Code.
- (10) The Council may combine an administrative penalty with another standard disciplinary sanction to protect the public or deter future violations.
- (b) Standard Disciplinary Sanctions. The Council may impose the following disciplinary sanctions which are listed in descending order of severity:
- (1) Revocation;
 - (2) Suspension for a definite period of time;
 - (3) Suspension plus probation of any or all of the suspension period;
 - (4) Probation of the license for a definite period of time;
 - (5) Reprimand; and
 - (6) Administrative penalty.
- (c) The following standard disciplinary sanctions shall apply to violations of:

<u>Council Rule or Violation</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
§882.30 Display of License					X
§882.31 Advertising Restrictions				X	
§882.32 Duty to Update Name and Address					X
§882.33 Disclosure of Proprietary Examination Materials or Information Prohibited		X			
§882.34 Filing of False or Misleading Information with the Council		X			
§884.30 Cooperation with Council Investigations		X			
§884.31 Notice to the Public of Complaint Process					X
§884.32 Reportable Legal Action and Discipline					X

- (d) Additional Conditions. The Council may impose additional conditions or restrictions upon a license deemed 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 professional approved by the Council;
 - (2) Restrictions on the licensee's ability to provide certain types of services or to provide services to certain classes of patients;
 - (3) Restrictions on the licensee's supervision of others in a particular area of practice;
 - (4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Council 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 Council of a licensee; and
 - (6) Undergoing a psychological or medical evaluation by a qualified professional approved in advance by the Council and undergoing any treatment recommended pursuant to the evaluation.
- (e) Aggravating Factors. Aggravating factors are those which may increase the severity of unprofessional conduct, justifying the imposition of a more severe penalty. Such factors include, but are not limited to the following:
- (1) Physical or emotional 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;
 - (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 Council order;
 - (12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;
 - (13) Lack of rehabilitative effort or potential; and
 - (14) Improper or inappropriate motive.

- (f) Mitigating Factors. Mitigating factors are those which may reduce the severity of unprofessional conduct. Such factors include, but are not limited to the following:
 - (1) Acceptance of responsibility;
 - (2) Self-reporting of unprofessional conduct;
 - (3) Implementation of remedial measures to correct or mitigate harm arising from the unprofessional conduct;
 - (4) Good-faith motive;
 - (5) Rehabilitative efforts or potential; and
 - (6) Prior community service.

Adopted to be effective: September 1, 2020

884.21. Assessment of Sanction. The Council, subject to §507.306 of the Occupations Code, has the exclusive authority to assess sanctions against licensees who are found to have violated a law within its jurisdiction. While the Council will consider an ALJ's recommendations as to the sanctions to be imposed, it is not bound by such recommendations. The appropriate sanction is not a proper finding of fact or conclusion of law, and the determination of the appropriate sanction is reserved to the Council based upon the relevant schedule of sanctions and record in a contested case.

Adopted to be effective: September 1, 2020

Subchapter D. Duties and Responsibilities.

884.30. Cooperation with Council Investigations. Licensees must cooperate with and respond to Council investigations. Failure to cooperate or respond may serve as grounds for a Council-initiated complaint and disciplinary action.

Adopted to be effective: September 1, 2020

884.31. Notice to the Public of Complaint Process.

- (a) Licensees shall provide notice to the public (e.g., patients, clients) that complaints can be filed with the Council by any of the following methods:
 - (1) on a registration form, application, written contract for services, or other intake paperwork required by licensees prior to delivering services;
 - (2) on a sign prominently displayed in the licensee's place of business or location where services are delivered. The sign must be printed on paper of no less than 8-1/2 inches by 11 inches in size;
 - (3) in a prominent and easily accessible location on the licensee's website; or

- (4) in a bill for services.
- (b) The notice required by this rule must include the Council's name, mailing address, and telephone number, as well as the following statement:

NOTICE TO CLIENTS

The Texas Behavioral Health Executive Council investigates and prosecutes professional misconduct committed by marriage and family therapists, professional counselors, psychologists, psychological associates, social workers, and licensed specialists in school psychology.

Although not every complaint against or dispute with a licensee involves professional misconduct, the Executive Council will provide you with information about how to file a complaint.

Please call 1-800-821-3205 for more information.

Adopted to be effective: September 1, 2020

884.32. Reportable Legal Action and 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 Council 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 services regulated by this agency 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 Council within thirty days of either filing by or service upon the licensee.
 - (3) 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 Council 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 this report to the Council 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) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action under applicable state or federal law. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Council rules.
- (c) Reciprocal Discipline:
 - (1) A complaint may be opened upon receipt of a report of discipline against a licensee by another health licensing agency in this state or any other jurisdiction.
 - (2) The Council may impose disciplinary action on a licensee according to its own schedule of sanctions for the conduct forming the basis of the other health licensing agency's disciplinary action.
 - (3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing agency constitutes disciplinary action under this rule.

Adopted to be effective: September 1, 2020

Subchapter E. License Suspension.

884.40. Temporary Suspension of a License.

- (a) In accordance with §507.302 of the Occupations Code, a license shall be temporarily suspended when the Council or an executive committee of the Council determines that the continued practice by a licensee (respondent) would constitute a continuing and imminent threat to the public welfare.
- (b) An executive committee of the Council shall convene as follows:
 - (1) For each temporary suspension proceeding, the Council shall appoint a three-member executive committee, called a "suspension panel," to consider the information and evidence presented by agency staff. The suspension panel must have at least one member from the same profession as the respondent and a

- majority of members from the respondent's member board. The suspension panel shall confer with each other and name a chair of the suspension panel.
- (2) In the event of the recusal of a suspension panel member or the inability of a suspension panel member to attend a temporary suspension proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the suspension panel.
 - (3) The suspension panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) **Temporary Suspension Hearing.** The meeting at which the suspension panel considers a temporary suspension is a temporary suspension hearing. At the temporary suspension hearing, agency staff shall present evidence and information to the suspension panel that the continued practice by a person licensed by the Council would constitute a continuing and imminent threat to the public welfare. Notice of the temporary suspension hearing shall be sent to the respondent no less than 10 days before the hearing by personal service or by registered or certified mail.
 - (d) **Order of Temporary Suspension.** If a majority of the suspension panel votes to temporarily suspend a license, the suspension shall have immediate effect, and the chair of the suspension panel will sign an Order of Temporary Suspension. The Order of Temporary Suspension shall include a factual and legal basis establishing imminent peril to the public health, safety, or welfare, as required by §2001.054(c-1) of the Government Code. The Order shall be sent to the respondent by first-class mail or email.
 - (e) **Temporary Suspension Without Notice.** In accordance with §507.302(b) of the Occupations Code, a license may be suspended without notice to the respondent if at the time of the suspension, agency staff request a hearing before SOAH to be held as soon as practicable but no later than 14 days after the date of the temporary suspension. The hearing is referred to as the "probable cause hearing."
 - (f) **Notice, Continuance, and Waiver of Probable Cause Hearing.** Agency staff shall serve notice of the probable cause hearing upon the respondent in accordance with SOAH's rules. The respondent may request a continuance or waiver of the probable cause hearing. If the ALJ grants the continuance request or the respondent waives the probable cause hearing, the suspension remains in effect until the suspension is considered by SOAH at the continued probable cause hearing or at the final hearing. If the probable cause

hearing is not held within 14 days and the respondent did not request a continuance or waive the probable cause hearing, the suspended license is reinstated.

- (g) Probable Cause Hearing. At the probable cause hearing, an ALJ shall determine whether there is probable cause to continue the temporary suspension of the license and issue an order on that determination.
- (h) Final Hearing. The State Office of Administrative Hearings shall hold a hearing no later than 61 days from the date of the temporary suspension. At this hearing, agency staff shall present evidence supporting the continued suspension of the license and may present evidence of any additional violations related to the licensee. This hearing is referred to as the "final hearing."
- (i) Notice and Continuance of Final Hearing. Agency staff shall send notice of the final hearing in accordance with SOAH's rules. The respondent may request a continuance or waive the final hearing. If a final hearing is not held within 61 days of the date of the temporary suspension and the respondent did not request a continuance or waive the final hearing, the license is reinstated.
- (j) Proposal for Decision. Following the final hearing, the ALJ shall issue a PFD on the suspension. The PFD may also address any other additional violations related to the licensee.
- (k) A temporary suspension takes effect immediately and shall remain in effect until:
 - (1) a final or superseding order of the Council is entered;
 - (2) the ALJ issues an order determining that there is no probable cause to continue the temporary suspension of the license; or
 - (3) a SOAH hearing is not timely held.

Adopted to be effective: September 1, 2020

884.41. Suspension of License for Failure to Pay Child Support.

- (a) On receipt of a final court order or order from a Title IV-D agency (e.g. the Texas Attorney General) suspending a license due to failure to pay child support, the Executive Director shall immediately determine if the Council 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 Council shall implement the terms of an order suspending a license without additional review or hearing.

The Council will provide notice of suspension as appropriate to the licensee and others concerned with the license.

- (c) The Council may not modify, remand, reverse, vacate, or stay an order suspending a license issued under Chapter 232 of the Family Code and may not review, vacate, or reconsider the terms of a final order suspending the license.
- (d) A licensee who is the subject of a court order or order from a Title IV-D agency suspending the individual's license is not entitled to a refund for any fee paid to the Council.
- (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.
- (f) An individual who continues to engage in the practice of marriage and family therapy, professional counseling, psychology, or social work after the implementation of the order suspending the individual's license is liable for the same civil and criminal penalties provided for engaging in the licensed activity without a license or while a license is suspended.
- (g) On receipt of a court order or order from a Title IV-D agency 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 renewal fee for the license prior to issuance of the license.

Adopted to be effective: September 1, 2020

Subchapter F. Special Provisions For Persons Licensed To Practice Psychology.

884.50. Competency Evaluations under Chapter 501 of the Occupations Code.

- (a) In accordance with §501.158 of the Occupations Code, based upon the Council's reasonable belief that an applicant or person licensed under Chapter 501 is not physically or mentally competent to provide psychological services with reasonable skill and safety to patients or has a physical or mental disease or condition that would impair the person's competency to provide psychological services, the Council may request the person submit to:
 - (1) a physical examination by a physician approved by the Council; or

- (2) a mental examination by a physician or psychologist approved by the Council.
- (b) The Council may carry out its functions under this rule by and through an executive committee of the Council, which may convene as follows:
 - (1) For each competency evaluation proceeding, the Council may appoint a three-member executive committee, called a "competency evaluation panel," to issue requests for physical or mental examinations, conduct show cause hearings, and issue orders determining whether a person's failure to submit to an examination was justified or unjustified. The competency evaluation panel must consist of a majority from TSBEP with at least one member holding the same license as the respondent. The competency evaluation panel shall confer with each other and name a chair for the panel.
 - (2) In the event of the recusal of a competency evaluation panel member or the inability of a panel member to attend a competency evaluation proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the competency evaluation panel.
 - (3) The competency evaluation panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) If the person should refuse, ignore, or fail to comply with the Council's request, the Council shall issue an order requiring the person to show cause for the person's refusal at a hearing on the order scheduled for not later than the thirtieth (30) day after the date the notice is served on the person. Notice shall be provided by either personal service or by registered mail, return receipt requested. The meeting at which the Council considers a person's failure to comply with an examination request is a "show cause hearing." At the show cause hearing, agency staff may present evidence and information to the Council that demonstrates the reasonable belief that an examination is necessary and may also present evidence of any additional violations related to the person. The person may appear, at the show cause hearing, in person and by counsel and present evidence to justify the person's refusal to submit to examination as well as respond to any additional violations.
- (d) After the show cause hearing, if a majority of the Council votes that the person's failure to comply with the request was unjustified then the Council shall issue an order

requiring the person to submit to the examination. If a majority of the Council votes that the person's failure to comply with the request was justified, then the Council shall issue an order withdrawing the request for the examination.

- (e) If the person fails to comply with the order issued after the show cause hearing requiring the person to submit to a physical or mental examination, the Council may take disciplinary action against the person by docketing the matter at SOAH.
- (f) Following a SOAH hearing, the ALJ shall issue a PFD on whether the person's failure to comply with the Council's order and request was justified. The PFD shall also address any other additional violations related to the person.
- (g) The Council shall review the PFD at a regularly scheduled meeting after the PFD is issued and the Council shall issue a final order in the matter.
- (h) An appeal from the Council's order under this section is governed by Chapter 2001 of the Government Code.

Adopted to be effective: September 1, 2020

884.51. Remedial Plans under Chapter 501 of the Occupations Code.

- (a) In accordance with §501.411 of the Occupations Code, the Council may issue and establish the terms of a non-disciplinary remedial plan to resolve the investigation of a complaint against a person licensed under Chapter 501.
- (b) A remedial plan may not contain a provision that:
 - (1) revokes, suspends, limits, or restricts a person's license or other authorization to practice psychology;
 - or
 - (2) assesses an administrative penalty against a person.
- (c) A remedial plan may not be imposed to resolve a complaint:
 - (1) concerning significant patient harm; or
 - (2) in which the appropriate resolution may involve a restriction or limitation on the manner in which a license holder practices psychology or the suspension or revocation of a license.
- (d) The Council may not issue a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the Council for the resolution of a different complaint.
- (e) The Council may issue a remedial plan to resolve a complaint against a license holder in which the appropriate resolution involves a reprimand, administrative penalty, or a combination thereof under the appropriate schedule of sanctions.

- (f) The Council may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.
- (g) In accordance with §507.205 of the Occupations Code, a remedial plan is confidential complaint information and not subject to public disclosure.

Adopted to be effective: September 1, 2020

Subchapter G. Compliance.

884.55. Monitoring Compliance with Disciplinary Orders. Each member board shall coordinate with agency staff and be responsible for monitoring its applicants and licensees who are ordered by the Council to take or undergo certain corrective, preventative, or rehabilitative steps within a disciplinary or eligibility order. The member boards shall ascertain whether its applicants and licensees are performing the required acts within the designated time period, and make appropriate recommendations to the Council for modification of the terms of an order or for further enforcement proceedings based upon noncompliance.

Adopted to be effective: September 1, 2020

Subchapter H. Contested Cases.

884.60. Witness Fees.

- (a) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or deposition pursuant to §507.206 of the Occupations Code, in connection with a complaint, shall be entitled to reimbursement of expenses as set forth in §2001.103 of the Government Code.
- (b) The party or agency at whose request a witness appears or the deposition is taken shall be responsible for payment of the expenses required by this rule.

Adopted to be effective: September 1, 2020

884.61. Contested Case Hearing Costs.

- (a) Costs associated with a contested case hearing before SOAH shall be determined according to the rules in 1 TAC §155.423 unless determined in accordance with subsection (b) of this section.

- (b) On the written request by a party to a case or on request of the ALJ, a written transcript of all or part of the proceedings shall be prepared. The cost of the transcript is borne by the requesting party. This section does not preclude the parties from agreeing to share the costs associated with the preparation of a transcript. If only the ALJ requests a transcript, costs will be assessed to the respondent(s) or applicant(s), as appropriate.

Adopted to be effective: September 1, 2020

884.62. Final Decision and Order.

- (a) A final decision or order following a contested case at SOAH shall be in writing and shall be signed by the presiding officer for the Council.
- (b) A party who appeals a final agency decision or order must pay all costs for the preparation of the original or a certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.

Adopted to be effective: September 1, 2020

884.63. Motion for Rehearing.

- (a) A motion for rehearing is a prerequisite to appeal from a Council's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Government Code, Chapter 2001, Subchapter F.
- (b) The Executive Director is authorized to grant or deny requests to extend the deadline for filing a motion for rehearing in accordance with Government 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 Government Code, Chapter 2001, Subchapter F.

Adopted to be effective: September 1, 2020

884.65. Corrected Final Decision and Order. The Executive Director may enter a corrected order to correct a clerical mistake in an order of the Council.

Adopted to be effective: September 1, 2020

FEES

885.1. Executive Council Fees.

- (a) General provisions.
- (1) All fees are nonrefundable and cannot be waived except as otherwise permitted by law.
 - (2) Fees required to be submitted online to the Council must be paid by debit or credit card. All other fees paid to the Council must be in the form of a personal check, cashier's check, or money order.
 - (3) For applications and renewals the Council is required to collect fees to fund the Office of Patient Protection (OPP) in accordance with Texas Occupations Code §101.307, relating to the Health Professions Council.
 - (4) For applications, examinations, and renewals the Council is required to collect subscription or convenience fees to recover costs associated with processing through Texas.gov.
 - (5) All examination fees are to be paid to the Council's designee.
- (b) The Executive Council adopts the following chart of fees:

<u>Fees</u>	<u>Total Fee</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>	<u>eStrategy</u>
APPLICATION FEES					
Social Workers					
LBSW or LMSW Application	\$ 109.00	\$ 100.00	\$ 4.00	\$ 5.00	
LCSW Application (LMSW-AP applications no longer accepted)	\$ 129.00	\$ 120.00	\$ 4.00	\$ 5.00	
Upgrade from LBSW to LMSW	\$ 20.00	\$ 20.00			
Upgrade from LMSW to LCSW	\$ 20.00	\$ 20.00			
Independent Practice Recognition	\$ 20.00	\$ 20.00			
Supervisor Status Application	\$ 50.00	\$ 50.00			
Temporary License Application	\$ 30.00	\$ 30.00			
Marriage and Family Therapists					
Initial LMFT Associate Application	\$ 69.00	\$ 60.00	\$ 4.00	\$ 5.00	
Initial Licensure Fee	\$ 90.00	\$ 90.00			
Upgrade from LMFT Associate to LMFT	\$ 90.00	\$ 90.00			
LMFT by Endorsement Application	\$ 161.00	\$ 150.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 50.00	\$ 50.00			
Professional Counselors					
LPC Associate/LPC/Provisional License Application	\$ 221.00	\$ 210.00	\$ 6.00	\$ 5.00	

Supervisor Status Application	\$ 50.00	\$ 50.00			
Art Therapy Designation	\$ 20.00	\$ 20.00			
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Application	\$ 325.00	\$ 320.00		\$ 5.00	
LP Application	\$ 450.00	\$ 445.00		\$ 5.00	
LP License Issuance Fee	\$ 381.00	\$ 381.00			
LSSP Application	\$ 280.00	\$ 275.00		\$ 5.00	
Temporary License Application	\$ 100.00	\$ 100.00			
RENEWAL FEES					
Social Workers					
LBSW/LMSW Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
LMSW-AP/LCSW Renewal	\$ 163.00	\$ 155.00	\$ 6.00	\$ 2.00	
Additional Renewal Fee for Independent Practice Recognition	\$ 20.00	\$ 20.00			
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
Marriage and Family Therapists					
LMFT/LMFT Associate Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
LMFT Associate Extension	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Professional Counselors					
LPC Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Renewal	\$ 238.00	\$ 230.00	\$ 6.00	\$ 2.00	
LP Renewal	\$ 424.00	\$ 412.00	\$ 10.00	\$ 2.00	
LSSP Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Over 70 Renewal - Applicable only to licensees who turned 70 by 8/31/2020	\$ 26.00	\$ 20.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for HSP Designation	\$ 40.00	\$ 40.00			
EXAMINATION FEES					
Social Workers					
Jurisprudence Exam	\$ 39.00	\$ 5.00			\$ 34.00
Marriage and Family Therapists					
Jurisprudence Exam	\$ 39.00	\$ 5.00			\$ 34.00

Professional Counselors					
Jurisprudence Exam	\$ 39.00	\$ 5.00			\$ 34.00
Psychologists/Psychological Associates/Specialists in School Psychology					
Jurisprudence Exam	\$ 39.00	\$ 5.00			\$ 34.00
MISCELLANEOUS FEES					
Duplicate Renewal Permit or License	\$ 10.00				
Written Verification of Licensure	\$ 10.00				
Written State to State Verification of Licensure	\$ 50.00				
Mailing List	\$ 10.00				
Returned Check Fee	\$ 25.00				
Criminal History Evaluation	\$ 150.00				
Reinstatement of License	\$ 500.00				
Request for Inactive Status	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Inactive Status Renewal (biennial)	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Request to Reactivate License from Inactive Status	equal to current renewal fee				
Late fee for license expired 90 days or less	equal to 1.5 times the base renewal fee				
Late fee for license expired more than 90 days, but less than one year	equal to 2 times the base renewal fee				

- (c) Late fees. (Not applicable to Inactive Status)
- (1) If the person's license has been expired (i.e., delinquent) for 90 days or less, the person may renew the license by paying to the Council a fee in an amount equal to one and one-half times the base renewal fee.
 - (2) If the person's license has been expired (i.e., delinquent) for more than 90 days but less than one year, the person may renew the license by paying to the Council a fee in an amount equal to two times the base renewal fee.
 - (3) If the person's license has been expired (i.e., delinquent) for one year or more, the person may not renew the license; however, the person may apply for reinstatement of the license.

- (d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council 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 Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).
- (e) Military Exemption for Fees. All licensing and examination base rate fees payable to the Council 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 licensure requirements; 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.

Adopted to be effective: September 1, 2020

Amended: February 9, 2021; September 19, 2021

TEXAS STATE BOARD OF EXAMINERS **OF PSYCHOLOGISTS**

APPLICATIONS AND EXAMINATIONS

Subchapter A. Applications and Licensing.

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.

Adopted to be effective: October 7, 2020

463.2. Reciprocity Agreements with Other Jurisdictions. 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 shall 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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

Subchapter B. Licensing Requirements.

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 §501.2525(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 shall 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, shall 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, shall 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.

Adopted to be effective: October 7, 2020

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 subsection 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:
 - (1) Psychological Foundations, including:
 - (A) biological bases of behavior;
 - (B) human learning;
 - (C) social bases of behavior;
 - (D) multi-cultural bases of behavior;
 - (E) child or adolescent development;
 - (F) psychopathology or exceptionalities;
 - (2) Research and Statistics;
 - (3) Educational Foundations, including any of the following:
 - (A) instructional design;
 - (B) organization and operation of schools;
 - (C) classroom management; or
 - (D) educational administration;
 - (4) Assessment, including:
 - (A) psychoeducational assessment;

- (B) socio-emotional, including behavioral and cultural, assessment;
 - (5) Interventions, including:
 - (A) counseling;
 - (B) behavior management;
 - (C) consultation;
 - (6) Professional, Legal and Ethical Issues; and
 - (7) A Practicum.
- (f) Applicants applying under subsection (d) of this section 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 §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) 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; or
 - (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.
 - (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) 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.

Adopted to be effective: October 7, 2020

Amended: September 19, 2021

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 §463.11 of this title; 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) Appropriate, published information from the university awarding the degree, demonstrating that the 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 §463.11 of this title 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.

Adopted to be effective: October 7, 2020
Amended: June 1, 2021

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 section. 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.

Adopted to be effective: October 7, 2020

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 the 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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

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Subchapter C. Licensing Provisions Related to Military Service Members, Veterans, and Military Spouses.

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 a disqualifying criminal history.

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Subchapter D. Specialty Certifications.

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.

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Subchapter E. Examinations.

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 shall 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.

Adopted to be effective: October 7, 2020

463.31. Minimum Passing Scores for Examinations.

- (a) Cut-off 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) Cut-off 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) Cut-off Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is ninety percent (90%).

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Subchapter F. Professional Development.

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 shall be in ethics, the Council's rules, or professional responsibility, and another 6 or more hours shall 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 socio-economic status.
- (b) Relevancy. All professional development hours shall be directly related to the practice of psychology. The Council 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 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 shall be obtained from or endorsed by a provider listed in subsection (f)(1) of this section.
- (d) The Council shall not pre-approve professional development credit.

- (e) Approved Professional Development Activities. The Council shall accept professional development hours obtained by participating in one or more of the following:
 - (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 shall 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 shall 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 shall 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 shall 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;
 - (3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course;
 - (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 course, 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.

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Amended: June 1, 2021

Subchapter G. Criminal History and License Eligibility.

463.40. Licensing of Persons with Criminal Convictions. 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 501 (Psychologists Licensing 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 §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 psychology;
- (9) any criminal violation of §22.041 (abandoning or endangering a child) of the Penal Code;
- (10) any criminal violation of §21.15 (invasive visual recording) of the Penal Code;
- (11) any criminal violation of §43.26 (possession of child pornography) of the Penal Code;
- (12) any criminal violation of §22.04 (injury to a child, elderly individual, or disable 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.

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Amended: June 1, 2021

RULES OF PRACTICE

- 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) "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.
- (13) "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.
- (14) "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).
- (15) "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.
- (16) "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.
- (17) "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.
- (18) "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.

- (19) "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.

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Amended: June 1, 2021

465.2. Supervision.

- (a) Supervision in General. The following rules apply to all supervisory relationships.
 - (1) Licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.
 - (2) Licensees shall ensure that their supervisees have legal authority to provide psychological services.
 - (3) Licensees may 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 shall 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 shall 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.

- (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 other individuals authorized by §463.9(g)(1) (relating to Licensed Specialist in School Psychology). The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and other individuals authorized by §463.9(g)(1) working toward licensure as a specialist in school psychology.
- (1) 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.
 - (2) 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.

- (3) 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 licensure status or legal authority to provide psychological services.
 - (4) 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.
 - (5) 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.

*Adopted to be effective: October 7, 2020
Amended: June 1, 2021; September 19, 2021*

465.4. Employment of Individuals Not Licensed by the Council.

- (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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

465.8. Psychological Services Are Provided within a Defined Relationship. Licensees provide psychological services only in the context of a defined professional relationship.

Adopted to be effective: October 7, 2020

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).

Adopted to be effective: October 7, 2020

465.10. Basis for Scientific and Professional Judgments. Licensees rely on scientifically and professionally derived knowledge when making professional judgments.

Adopted to be effective: October 7, 2020

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).

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

465.13. Personal Problems, Conflicts and Dual Relationship.

- (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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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 client. Licensees

shall consult with the other service providers after appropriate consent has been obtained.

Adopted to be effective: October 7, 2020

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.

Adopted to be effective: October 7, 2020

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; and
- (B) interns and post-doctoral fellows working towards licensure as a 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) of this 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.

Adopted to be effective: October 7, 2020
Amended: September 19, 2021

SCHEDULE OF SANCTIONS

470.1. Schedule of Sanctions. The following standard sanctions shall apply to violations of Chapter 501 and 22 TAC Part 21.

<u>Board Rule</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
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	

Adopted to be effective: October 7, 2020

OTHER LAWS

Council rule 882.36 requires that licensees comply with all applicable state and federal statutes. Please note, this is not an all-inclusive list of state statutes which are pertinent to the practice of behavioral health in Texas. Additionally, the text of Texas Health and Safety Code, Chapter 611, Mental Health Records, is provided.

TEXAS HEALTH AND SAFETY CODE

Chapter 611. Mental Health Records

§611.001. Definitions. In this chapter:

- (1) "Patient" means a person who consults or is interviewed by a professional for diagnosis, evaluation, or treatment of any mental or emotional condition or disorder, including alcoholism or drug addiction.
- (2) "Professional" means:
 - (A) a person authorized to practice medicine in any state or nation;
 - (B) a person licensed or certified by this state to diagnose, evaluate, or treat any mental or emotional condition or disorder; or
 - (C) a person the patient reasonably believes is authorized, licensed, or certified as provided by this subsection.

§611.002. Confidentiality of Information and Prohibition Against Disclosure.

- (a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.
- (b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.
- (c) This section applies regardless of when the patient received services from a professional.

§611.003. Persons Who May Claim Privilege of Confidentiality.

- (a) The privilege of confidentiality may be claimed by:
 - (1) the patient;
 - (2) a person listed in Section 611.004(a)(4) or (a)(5) who is acting on the patient's behalf; or
 - (3) the professional, but only on behalf of the patient.
- (b) The authority of a professional to claim the privilege of confidentiality on behalf of the patient is presumed in the absence of evidence to the contrary.

§611.004. Authorized Disclosure on Confidential Information Other Than in Judicial or Administrative Proceeding.

- (a) A professional may disclose confidential information only:
 - (1) to a governmental agency if the disclosure is required or authorized by law;
 - (2) to medical or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the patient to the patient or others or there is a probability of immediate mental or emotional injury to the patient;
 - (3) to qualified personnel for management audits, financial audits, program evaluations, or research, in accordance with Subsection (b);
 - (4) to a person who has the written consent of the patient, or a parent if the patient is a minor, or a guardian if the patient has been adjudicated as incompetent to manage the patient's personal affairs;
 - (5) to the patient's personal representative if the patient is deceased;
 - (6) to individuals, corporations, or governmental agencies involved in paying or collecting fees for mental or emotional health services provided by a professional;
 - (7) to other professionals and personnel under the professionals' direction who participate in the diagnosis, evaluation, or treatment of the patient;
 - (8) in an official legislative inquiry relating to a state hospital or state school as provided by Subsection (c);
 - (9) to designated persons or personnel of a correctional facility in which a person is detained if the disclosure is for the sole purpose of providing treatment and health care to the person in custody;
 - (10) to an employee or agent of the professional who requires mental health care information to provide mental health care services or in complying with statutory, licensing, or accreditation requirements, if the professional has taken appropriate action to ensure that the employee or agent:
 - (A) will not use or disclose the information for any other purposes; and
 - (B) will take appropriate steps to protect the information; or
 - (11) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 74.051(e), Civil Practice and Remedies Code.

- (b) Personnel who receive confidential information under Subsection (a)(3) may not directly or indirectly identify or otherwise disclose the identity of a patient in a report or in any other manner.
- (c) The exception in Subsection (a)(8) applies only to records created by the state hospital or state school or by the employees of the hospital or school. Information or records that identify a patient may be released only with the patient's proper consent.
- (d) A person who receives information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information. This subsection does not apply to a person listed in Subsection (a)(4) or (a)(5) who is acting on the patient's behalf.

611.0041. Required Disclosure of Confidential Information Other Than in Judicial or Administrative Proceeding.

- (a) In this Section:
 - (1) "Patient" has the meaning assigned by §552.0011.
 - (2) "State hospital" has the meaning assigned by §552.0011.
- (b) To the extent permitted by federal law, a professional shall disclose confidential information to the descendant of a patient of a state hospital if:
 - (1) the patient has been deceased for at least 50 years; and
 - (2) the professional does not have information indicating that releasing the medical record is inconsistent with any prior expressed preference of the deceased patient or personal representatives of the deceased patient's estate.
- (c) A person who receives information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information.

§611.0045. Right to Mental Health Record.

- (a) Except as otherwise provided by this section, a patient is entitled to have access to the content of a confidential record made about the patient.

- (b) The professional may deny access to any portion of a record if the professional determines that release of that portion would be harmful to the patient's physical, mental, or emotional health.
- (c) If the professional denies access to any portion of a record, the professional shall give the patient a signed and dated written statement that having access to the record would be harmful to the patient's physical, mental, or emotional health and shall include a copy of the written statement in the patient's records. The statement must specify the portion of the record to which access is denied, the reason for denial, and the duration of the denial.
- (d) The professional who denies access to a portion of a record under this section shall redetermine the necessity for the denial at each time a request for the denied portion is made. If the professional again denies access, the professional shall notify the patient of the denial and document the denial as prescribed by Subsection (c).
- (e) If a professional denies access to a portion of a confidential record, the professional shall allow examination and copying of the record by another professional if the patient selects the professional to treat the patient for the same or a related condition as the professional denying access.
- (f) The content of a confidential record shall be made available to a person listed by Section 611.004(a)(4) or (5) who is acting on the patient's behalf.
- (g) A professional shall delete confidential information about another person who has not consented to the release, but may not delete information relating to the patient that another person has provided, the identity of the person responsible for that information, or the identity of any person who provided information that resulted in the patient's commitment.
- (h) If a summary or narrative of a confidential record is requested by the patient or other person requesting release under this section, the professional shall prepare the summary or narrative.
- (i) The professional or other entity that has possession or control of the record shall grant access to any portion of the record to which access is not specifically denied under this section within a reasonable time and may charge a reasonable fee.
- (j) Notwithstanding Section 159.002, Occupations Code, this section applies to the release of a confidential record created or maintained by a professional, including a physician, that relates to the diagnosis, evaluation, or treatment of a mental

or emotional condition or disorder, including alcoholism or drug addiction.

- (k) The denial of a patient's access to any portion of a record by the professional or other entity that has possession or control of the record suspends, until the release of that portion of the record, the running of an applicable statute of limitations on a cause of action in which evidence relevant to the cause of action is in that portion of the record.

§611.005. Legal Remedies for Improper Disclosure or Failure to Disclose.

- (a) A person aggrieved by the improper disclosure of or failure to disclose confidential communications or records in violation of this chapter may petition the district court of the county in which the person resides for appropriate relief, including injunctive relief. The person may petition a district court of Travis County if the person is not a resident of this state.
- (b) In a suit contesting the denial of access under Section 611.0045, the burden of proving that the denial was proper is on the professional who denied the access.
- (c) The aggrieved person also has a civil cause of action for damages.

§611.006. Authorized Disclosure of Confidential Information in Judicial or Administrative Proceeding.

- (a) A professional may disclose confidential information in:
 - (1) a judicial or administrative proceeding brought by the patient or the patient's legally authorized representative against a professional, including malpractice proceedings;
 - (2) a license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claim or defense of a professional;
 - (3) a judicial or administrative proceeding in which the patient waives the patient's right in writing to the privilege of confidentiality of information or when a representative of the patient acting on the patient's behalf submits a written waiver to the confidentiality privilege;
 - (4) a judicial or administrative proceeding to substantiate and collect on a claim for mental or emotional health services rendered to the patient;
 - (5) a judicial proceeding if the judge finds that the patient, after having been informed that communications would not be privileged, has made communications to

- a professional in the course of a court-ordered examination relating to the patient's mental or emotional condition or disorder, except that those communications may be disclosed only with respect to issues involving the patient's mental or emotional health;
- (6) a judicial proceeding affecting the parent-child relationship;
 - (7) any criminal proceeding, as otherwise provided by law;
 - (8) a judicial or administrative proceeding regarding the abuse or neglect, or the cause of abuse or neglect, of a resident of an institution, as that term is defined by Chapter 242;
 - (9) a judicial proceeding relating to a will if the patient's physical or mental condition is relevant to the execution of the will;
 - (10) an involuntary commitment proceeding for court-ordered treatment or for a probable cause hearing under:
 - (A) Chapter 462;
 - (B) Chapter 574; or
 - (C) Chapter 593; or
 - (11) a judicial or administrative proceeding where the court or agency has issued an order or subpoena.
- (b) On granting an order under Subsection (a)(5), the court, in determining the extent to which disclosure of all or any part of a communication is necessary, shall impose appropriate safeguards against unauthorized disclosure.

§611.007. Revocation of Consent.

- (a) Except as provided by Subsection (b), a patient or a patient's legally authorized representative may revoke a disclosure consent to a professional at any time. A revocation is valid only if it is written, dated, and signed by the patient or legally authorized representative.
- (b) A patient may not revoke a disclosure that is required for purposes of making payment to the professional for mental health care services provided to the patient.
- (c) A patient may not maintain an action against a professional for a disclosure made by the professional in good faith reliance on an authorization if the professional did not have notice of the revocation of the consent.

§611.008. Request by Patient.

- (a) On receipt of a written request from a patient to examine or copy all or part of the patient's recorded mental health care information, a professional, as promptly as required under the circumstances but not later than the 15th day after the date of receiving the request, shall:
 - (1) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or
 - (2) inform the patient if the information does not exist or cannot be found.
- (b) Unless provided for by other state law, the professional may charge a reasonable fee for retrieving or copying mental health care information and is not required to permit examination or copying until the fee is paid unless there is a medical emergency.
- (c) A professional may not charge a fee for copying mental health care information under Subsection (b) to the extent the fee is prohibited under Subchapter M, Chapter 161.

Texas Family Code:

- Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment
- Chapter 153, Rights of Parents and Other Conservators to Consent to Treatment of Child and Access to Child's Records
- Chapter 107, Special Appointments, Child Custody Evaluations and Adoption Evaluations
- Chapter 261, Duty to Report Child Abuse and Neglect

Texas Human Resource Code:

- Chapter 48, Duty to Report Abuse of Elderly or Disabled Person

Texas Civil Practice and Remedies Code:

- Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider

Texas Occupations Code:

- Chapter 116, Training Course on Human Trafficking Prevention