

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 22. EXAMINING BOARDS

PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 5. REGISTERED INTERIOR DESIGNERS

SUBCHAPTER I. DISCIPLINARY ACTION

22 TAC §5.183

The Texas Board of Architectural Examiners (Board) adopts amendments to Texas Administrative Code Part 1, Title 22, §5.183, concerning Violation by One Not a Registered Interior Designer. The amendments are adopted without changes to the proposed text as published in the May 22, 2020, issue of the *Texas Register* (45 TexReg 3423). The rule will not be republished.

Reasoned Justification.

The adopted amendments implement House Bill 2847 (86th Regular Session, 2019), which made two changes to the law governing the board's regulation of interior design. First, amendments to Tex. Occ. Code §1051.451 eliminated the Board's authority to impose administrative penalties against a nonregistrant for conduct related to the practice of interior design. Second, the bill repealed Tex. Occ. Code §1053.351, which previously made it a Class C misdemeanor criminal offense to knowingly violate Occupations Code §1053.151 (use, by a nonregistrant, of the term "registered interior designer" or words that imply a person is a registered interior designer) or a standard of conduct adopted under Occupations Code Chapter 1053 (the chapter regulating registered interior designers). Previously, the board adopted provisions under 22 TAC §5.183 implementing its former authority to impose administrative penalties against nonregistrants and addressing criminal prosecution as a potential remedy for violations of Chapter 1053. The adopted rules are necessary to update these obsolete provisions.

Amended §5.183(a) repeals criminal prosecution and imposition of an administrative penalty as potential remedies for a nonregistrant who violates Occupations Code Chapter 1053 or 22 Texas Administrative Code Chapter 5. Additionally, "denial of registration as a Registered Interior Designer, if applicable," is added as a potential remedy for the same, to clarify preexisting authority granted to the board under Tex. Occ. Code §1053.251(c).

Additionally, former subsections (c) and (d) of §5.183 are repealed under the adopted rule, as they described the Board's procedures to impose an administrative penalty against a nonregistrant. In place of these provisions, amended subsection (c) is adopted. Amended subsection (c) describes the procedure to issue a cease and desist order to a nonregistrant who

violates Occupations Code Chapter 1053 or 22 Texas Administrative Code Chapter 5. This amended rule and the process it adopts are based on preexisting authority of the Board contained in Tex. Occ. Code §1051.504. Adoption of this amendment will enable the Board to meet its statutory obligation under Tex. Occ. Code §1051.501 to ensure that enforcement action is taken against an individual who violates a law under the Board's jurisdiction.

Adopted §5.183(d) implements the statutory repeal of administrative penalties against nonregistrants, and states that, if a nonregistrant commits a violation that would otherwise result in an administrative penalty under the penalty matrices adopted by the board in 22 TAC §§5.187 and/or 5.242, the person would be subject to a remedy described in subsection (a) in lieu of an administrative penalty. Finally, the term "nonregistrant" has been substituted for "person who is not a registered interior designer" throughout §5.183, as "nonregistrant" is a defined term in 22 Texas Administrative Code §5.5.

Summary of Comments and Agency Response. The Board did not receive any comments on the proposed rule.

STATUTORY AUTHORITY

Amended §5.183 is adopted under Tex. Occ. Code §1051.202, which provides the Texas Board of Architectural Examiners with authority to promulgate rules to implement Chapters 1051, 1052, and 1053 of the Texas Occupations Code. The adopted rule implements recent changes to Tex. Occ. Code §1051.451, which eliminated the Board's authority to impose administrative penalties against a nonregistrant for conduct related to the practice of interior design; and the recent repeal of Tex. Occ. Code §1053.351, which previously made it a Class C misdemeanor criminal offense to knowingly violate Occupations Code §1053.151 or a standard of conduct adopted under Occupations Code Chapter 1053.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 14, 2020.

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Texas Board of Architectural Examiners

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PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 461. GENERAL RULINGS

22 TAC §§461.1 - 461.17, 461.19 - 461.22, 461.35

The Texas Behavioral Health Executive Council adopts the repeal of rules 461.1 - 461.17, 461.19 - 461.22, and 461.35, relating to General Rulings, without changes as published in the July 10, 2020 issue of the *Texas Register* (45 TexReg 4617) and will not be republished.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior addition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with 501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by 501.1515 of the Tex. Occ. Code which states the Board shall

propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 17, 2020.

TRD-202003846

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CHAPTER 463. APPLICATIONS AND EXAMINATIONS

22 TAC §§463.1 - 463.12, 463.14, 463.16 - 463.23, 463.25 - 463.31

The Texas Behavioral Health Executive Council adopts the repeal of rules 463.1 - 463.12, 463.14, 463.16 - 463.23, and 463.25 - 463.31, relating to Applications and Examinations, without changes as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4618) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this addition of the *Texas Register*.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior addition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with 501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by 501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER A. APPLICATIONS AND LICENSING

22 TAC §§463.1 - 463.3

The Texas Behavioral Health Executive Council adopts new §§463.1 - 463.3, relating to Applications and Licensing. Sections 463.1 and 463.3 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4620) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §463.2 is being changed and adopted as republished below.

Reasoned Justification.

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

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

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

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER B. LICENSING REQUIREMENTS

22 TAC §§463.8 - 463.14

The Texas Behavioral Health Executive Council adopts new §§463.8 - 463.14, relating to Licensing Requirements. Sections 463.10 and 463.12 - 463.14 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4621) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §463.8 and §463.9 are being changed and adopted as republished below. Section 463.11 is also being adopted with minor changes and will be republished.

Reasoned Justification.

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

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

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

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§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.

§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) Trainee Status.

(1) An applicant for the specialist in school psychology license who has not yet passed the Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.

(2) A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Jurisprudence Examination.

(3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.

(4) A trainee's status may be suspended or revoked upon a showing of a violation of the Council's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The one-year period for trainee status shall not be tolled by any suspension of the trainee status.

(5) Following official notification from the Council upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.

(6) An individual practicing under trainee status must be designated as a trainee.

(h) Provision of psychological services in the public schools by unlicensed individuals.

(1) An unlicensed individual may provide psychological services under supervision in the public schools if:

(A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;

(B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Council that has not been denied or returned; or

(C) the individual has been issued a trainee status letter.

(2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under §501.004 of the Psychologists' Licensing Act.

(3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Council.

(4) The authority to practice referenced in paragraph (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Council will not issue more than one trainee status letter to an individual, regardless of the number of applications filed.

§463.11. 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 ob-

tained 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 (AP-PIC); 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER C. LICENSING PROVISIONS RELATED TO MILITARY SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES

22 TAC §463.20

The Texas Behavioral Health Executive Council adopts new §463.20, relating to Licensing Provisions Related to Military Service Members, Veterans, and Military Spouses. Section 463.20 was proposed in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4630). In response to non-substantive changes being requested by the Office of the Texas Governor, §463.20 is being changed and adopted as republished below.

Reasoned Justification.

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

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

The new rule pertains to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent

with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. SPECIALTY CERTIFICATIONS

22 TAC §463.25

The Texas Behavioral Health Executive Council adopts new §463.25, relating to Specialty Certifications. Section 463.25 is adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4632) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Coun-

cil to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

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

The new rule pertains to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule

of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§463.25. *Health Service Psychologist Specialty Certification.*

(a) Health Service Psychologist (HSP) is a specialty certification from the Council available to Texas licensed psychologists who are listed in the National Register of Health Service Psychologists.

(b) The Council will issue the HSP specialty certification to actively licensed psychologists upon receipt of proof from the National Register that the licensee currently holds the HSP credential from the National Register.

(c) The HSP specialty certification by the Council must be renewed in connection with the person's license. Renewal of the HSP specialty certification requires payment of the renewal fee established by the Council.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER E. EXAMINATIONS

22 TAC §463.30, §463.31

The Texas Behavioral Health Executive Council adopts new rules §463.30 and §463.31, relating to Examinations. Section 463.30 and §463.31 were proposed in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4634). In response to non-substantive changes being requested by the Office of the Texas Governor, §463.30 and §463.31 have been changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Coun-

cil to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

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

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

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and

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

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

§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.

§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%).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER F. PROFESSIONAL DEVELOPMENT

22 TAC §463.35

The Texas Behavioral Health Executive Council adopts new §463.35, relating to Professional Development. Section 463.35 was proposed in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4635). In response to non-substantive changes being requested by the Office of the Texas Governor, §463.35 is being changed and adopted as republished below.

Reasoned Justification.

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

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

The new rule pertains to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§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 activities, provided that the specific activity may not be used for credit in more than one renewal period:

(1) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;

(2) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;

(3) presentation of a program or workshop; and

(4) authoring or editing publications.

(f) **Approved Professional Development Providers.** The Council 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

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Texas State Board of Examiners of Psychologists

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SUBCHAPTER G. CRIMINAL HISTORY AND LICENSE ELIGIBILITY

22 TAC §463.40

The Texas Behavioral Health Executive Council adopts new §463.40, relating to Criminal History and License Eligibility. Section 463.40 is adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4638) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Coun-

cil to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

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

The new rule pertains to the qualifications necessary to obtain a license and continuing education requirements for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule

of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 465. RULES OF PRACTICE

22 TAC §§465.1 - 465.18, 465.20 - 465.22, 465.32 - 465.35, 465.37, 465.38

The Texas Behavioral Health Executive Council adopts the repeal of rules 465.1 - 465.18, 465.20 - 465.22, 465.32 - 465.35, 465.37, and 465.38, relating to Rules of Practice, without changes as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4639) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this addition of the *Texas Register*.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior addition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with 501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by 501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 305-7706



22 TAC §§465.1, 465.2, 465.4, 465.6, 465.8 - 465.18, 465.20 - 465.22, 465.32 - 465.35, 465.38

The Texas Behavioral Health Executive Council adopts new §§465.1, 465.2, 465.4, 465.6, 465.8 - 465.18, 465.20 - 465.22, 465.32 - 465.35, and 465.38, relating to Rules of Practice. Sections 465.1, 465.6, 465.8 - 465.18, 465.20 - 465.22, and 465.32 - 465.35 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4641) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §§465.2, 465.4, and 465.38 are being changed and adopted as republished below.

Reasoned Justification.

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

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

The new rules pertain to rules of practice for psychology; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

Texas Psychological Association - §465.2

Summary of comments against the rule.

A commenter requested an amendment to §465.2(a)(7) to clarify or allow for supervision to be provided by asynchronous means at least fifty percent of the time.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to amend rule §465.2 as requested by the commenter. The agency believes the requested change would be substantive if made, and would require republication before adoption. The agency also believes further information and investigation regarding this requested change may be needed before proposing any future amendments for this rule. For these reasons the agency declines to make the requested change, and hereby adopts the rule with no changes.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§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. Methods of supervision may include synchronous remote or electronic means.

(8) Licensees must be competent to perform any psychological services being provided under their supervision.

(9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.

(10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.

(b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.

(1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.

(2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.

(3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.

(4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.

(5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure under Chapter 501, to supervise others in the delivery of psychological services.

(6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

(c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.

(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice unless the provisional licensee is licensed in another state to independently practice psychology and is in good standing in that state.

(2) A Provisionally Licensed Psychologist may, as part of a period of supervised experience required for licensure as a psychologist, supervise others in the delivery of psychological services.

(3) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a proportional basis for supervisees working less than full-time.

(d) Supervision of Licensed Specialists in School Psychology interns and trainees. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and trainees working toward licensure as a specialist in school psychology.

(1) A supervisor must provide an LSSP trainee with at least one hour of supervision per week, with no more than half being group supervision. A supervisor may reduce the amount of weekly supervision on a proportional basis for trainees working less than full-time.

(2) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology who has a minimum of 3 years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.

(3) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.

(4) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:

(A) any contracts or service agreements between the public school district and university school psychology training program;

(B) any contracts or service agreements between the public school district and the supervisee;

(C) the supervisee's professional liability insurance coverage, if any;

(D) any training logs required by the school psychology training program; and

(E) the supervisee's trainee or licensure status.

(5) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

(6) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.

(e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

§465.4. Employment of 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.

§465.38. Psychological Services for Schools.

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Council recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) An LSSP is a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Council rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

(d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology or LSSP. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Council to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs;

(B) Those individuals listed in §463.11; and

(C) Individuals seeking to fulfill the licensing requirements of §463.10 of this title (relating to Licensed Psychological Associate) or §463.12 of this title (relating to Licensed Psychologist).

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this section.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 469. COMPLAINTS AND ENFORCEMENT

22 TAC §§469.1 - 469.12, 469.14, 469.15

The Texas Behavioral Health Executive Council adopts the repeal of §§469.1 - 469.12, 469.14, and 469.15, relating to Complaints and Enforcement, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4654). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 470. ADMINISTRATIVE PROCEDURE

22 TAC §§470.1 - 470.6, 470.8 - 470.12, 470.15 - 470.24

The Texas Behavioral Health Executive Council adopts the repeal of §§470.1 - 470.6, 470.8 - 470.12, and 470.15 - 470.24, relating to Administrative Procedure, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4656). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Psychologists
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For further information, please call: (512) 305-7706



CHAPTER 470. SCHEDULE OF SANCTIONS

22 TAC §470.1

The Texas Behavioral Health Executive Council adopts new §470.1, relating to Schedule of Sanctions. Section 470.1 is adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4657) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and

507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

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

The new rule pertains to a schedule of sanctions; and incorporates changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Psychologists, in accordance with §501.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
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For further information, please call: (512) 305-7706



CHAPTER 471. RENEWALS

22 TAC §§471.1, 471.3 - 471.6

The Texas Behavioral Health Executive Council adopts the repeal of §§471.1 and 471.3 - 471.6, relating to Renewals, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4659). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks
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Texas State Board of Examiners of Psychologists
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For further information, please call: (512) 305-7706



CHAPTER 473. FEES

22 TAC §§473.1 - 473.5, 473.8

The Texas Behavioral Health Executive Council adopts the repeal of rules §§473.1 - 473.5 and 473.8, relating to Fees, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4660). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 523. CONTINUING PROFESSIONAL EDUCATION

SUBCHAPTER B. CONTINUING PROFESSIONAL EDUCATION RULES FOR INDIVIDUALS

22 TAC §523.121

The Texas State Board of Public Accountancy adopts the repeal of §523.121, concerning CPE for Non-CPA Owners, without changes to the proposed text as published in the July 31, 2020 issue of the *Texas Register* (45 TexReg 5297). The rule will not be republished.

The Texas Public Accountancy Act was amended during the last legislative session to eliminate the need for non-CPA firm owners to take Continuing Professional Education. The adoption of the repeal reflects the elimination made during the legislative session.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202003838

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPIST

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §801.2, §801.11

The Texas Behavioral Health Executive Council adopts amended §801.2 and new §801.11, relating to General Provisions. Section 801.11 is adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4661) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §801.2 is being changed and adopted as republished below.

Reasoned Justification.

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

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

The amended and new rules are the definitions for the rules in Chapter 801 and pertain to the general operations for the Texas State Board of Examiners of Marriage and Family Therapists; the rules also incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

Texas Counseling Association - rule §801.11

Summary of comments against the rule.

Commenters requested rule §801.11 include, or retain, a provision that states the public may request topics be added to the Board's agenda.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to amend the rule as requested by the commenters. The public has several ways that they can contact the Board or the Council should they have issues or concerns. The public may submit a petition for a rule to the Council, they can comment at public Board and Council meetings, and they can also contact agency staff with their concerns. For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

plied with Chapters 502 and 507 of the Texas Occupations Code and may adopt these rules.

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

§801.2. *Definitions.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and family therapist license, or a provisional marriage and family therapist associate license.

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

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

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

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

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

(20) Month--A calendar month.

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

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

(A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));

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

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

(23) Supervision--

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

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

(24) Supervision hour--50 minutes.

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

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

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7700



SUBCHAPTER B. THE BOARD

22 TAC §§801.11 - 801.19

The Texas Behavioral Health Executive Council adopts the repeal of §§801.11 - 801.19, relating to the Board, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4665). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

Texas Counseling Association

Summary of comments against the rule.

Commenters requested the agency not repeal rule §801.12, and allow for individuals to submit petitions for rule adoption directly to the Board.

Commenters requested the agency not repeal rule §801.15, and retain a rule that states the Board will comply with all laws pertaining to impartiality and nondiscrimination.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain rule §801.12 as requested by the commenters. The Council has the statutory authority to propose and adopt rules. The public may submit a petition for rule adoption to the Council, and if the petition relates to a matter that must originate from a particular Board, then staff will forward that petition to a particular Board for consideration. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

The agency declines to retain rule §801.15 as requested by the commenters. The Council has a rule pertaining to conflicts of interest and recusals, 22 TAC §881.5. Additionally, the Council has a Compact with Texans which includes a commitment to nondiscrimination and reasonable accommodations that is aligned with state and federal laws. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code, the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education re-

quirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER B. RULES OF PRACTICE

22 TAC §§801.41 - 801.48, 801.50, 801.53 - 801.58

The Texas Behavioral Health Executive Council adopts new §§801.41 - 801.48, 801.50, and 801.53 - 801.58, relating to Rules of Practice. Sections 801.41, 801.42, 801.45, 801.46, 801.48, 801.50, and 801.54 - 801.57 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4668) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, and comments received from the public, §§801.43, 801.44, 801.47, 801.53, and 801.58 are being changed and adopted as republished below.

Reasoned Justification.

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

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

The new rules pertain to the scope of practice, standards of care, and ethical practice for marriage and family therapists; and incor-

porate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter requested the prohibitions against the use of drugs and alcohol in the practice of marriage and family therapy be moved from rule §801.44 to §801.47.

A commenter requested rule §801.58 be amended to remove the requirement that a licensee provide a physical location of practice.

List of interested groups or associations for the rule.

Texas Counseling Association - rule §801.58

Summary of comments for the rule.

Commenters stated their support for reducing the amount of initial hours of education required to initially provide technology assisted services from 15 hours to 8 hours in rule §801.58.

Agency Response.

The agency agrees in part and declines in part to amend rule §801.44 as requested by the commenter. The portion of the rule pertaining to drugs and alcohol, §801.44(s), has been moved to §801.47, where organizationally it makes sense. But §801.44(w) has been amended in response to the Office of the Governor's recommendations and it no longer pertains to drugs or alcohol, so reorganizing it to §801.47 no longer makes sense. For these reasons the agency agrees to make some of the requested changes, and hereby adopts the rule with changes.

The agency appreciates the commenters support for amendments to rule §801.58; the agency has amended this rule in response to the Office of the Governor's recommendations to reduce the required hours of education to initially provided technology assisted services to zero. The agency also agrees that removing the requirement to provide a physical location of practice makes sense, and notes that the business address associated with the license will be in the Council's database and available for public view. For these reasons the agency agrees to make some of the requested changes, and hereby adopts the rule with changes.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt these rules.

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

§801.43. Professional Representation.

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

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

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

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

- (1) the effectiveness of services;
- (2) the licensee's qualifications, capabilities, background, training, education, experience, professional affiliations, fees, products, or publications; or
- (3) the practice of marriage and family therapy.

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

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

(g) If a licensee learns of a misrepresentation, exaggerated, false, deceptive, or fraudulent claim or statement made by another, the

licensee must take reasonable action to correct the misrepresentation, claim or statement.

§801.44. Relationships with Clients.

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

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

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

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

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

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

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

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

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

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

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

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or for-

mer client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

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

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

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

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

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

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

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

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

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

(v) A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship.

§801.47. *Drug and Alcohol Use.*

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

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

§801.53. *Advertising and Announcements.*

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) All advertisements or announcements of therapeutic services including telephone directory listings by a licensee must clearly state his or her license status by the use of a title such as "Licensed Marriage and Family Therapist," "LMFT," "Licensed Marriage and Family Therapist Associate," "LMFT Associate," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S," or "LMFT Supervisor."

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

(f) An LMFT or LMFT Associate holding a provisional license must indicate the provisional status on all advertisements, billing,

and announcements of treatment by the use of the term "Provisional Licensed Marriage and Family Therapist" or "Provisional Licensed Marriage and Family Therapist Associate," as appropriate.

(g) If a licensee becomes aware of a misuse of licensee's license certificate or misrepresentation of a licensee's services or the results of licensee's services, the licensee must report the misuse or misrepresentation to the Council within 30 days of becoming aware of the misuse or misrepresentation.

§801.58. Technology-Assisted Services.

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

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

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

(d) A licensee may provide technology-assisted services. To ensure the competent delivery of services by technology-assisted means, a licensee must maintain an appropriate level of education, training, or experience in using relevant technology. A licensee who provides technology assisted services must complete a minimum of two hours of continuing education in technology-assisted services every renewal period.

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

- (1) fully verifying the location and identity of the client, to the most reasonable extent possible; and
- (2) disclosing the identity of the licensee.

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

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

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

- (1) identification of the client, the therapist, and the therapist's credentials;
- (2) list of services provided by the licensee using technology-assisted services;

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

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

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

(6) the licensee's credentials or training to engage in technology-assisted services, and contact information;

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

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

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

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

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706



SUBCHAPTER C. GUIDELINES FOR PROFESSIONAL THERAPEUTIC SERVICES AND CODE OF ETHICS

22 TAC §§801.41 - 801.58

The Texas Behavioral Health Executive Council adopts the repeal of §§801.41 - 801.58, relating to Guidelines for Professional Therapeutic Services and Code of Ethics, without changes as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4666) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this addition of the *Texas Register*.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior addition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

Texas Counseling Association - rule 801.49

Summary of comments against the rule.

Commenters were concerned that if rule 801.49 were repealed licensees would not be required to report certain things, such as criminal convictions or newly earned academic degrees, or be required to cooperate with disciplinary investigations or proceedings.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain rule 801.49 as requested by the commenters. The Council adopted rules which do require licensees to report criminal convictions and cooperate with Council investigations. The Council can request a copy of a licensee's academic degree if it is needed or relevant to a Council proceeding. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

Statutory Authority.

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

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

In accordance with 502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by 502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of

sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with 507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706

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SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §§801.71, 801.74 - 801.76, 801.112 - 801.115, 801.142, 801.143, 801.174, 801.202, 801.203, 801.263, 801.264, 801.266

The Texas Behavioral Health Executive Council adopts new §§801.71, 801.74 - 801.76, 801.112 - 801.115, 801.142, 801.143, 801.174, 801.202, 801.203, 801.263, 801.264, and 801.266, relating to applications and licensing. Sections 801.71, 801.74 - 801.76, 801.112 - 801.115, 801.143, 801.174, 801.202, 801.203, 801.263, 801.264, and 801.266 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4678) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §801.142 is being changed and adopted as republished below.

Reasoned Justification.

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

perform the Executive Council's duties and implement Chapter 507.

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

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

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter requested rule §801.114 be amended to reduce the direct contact hours requirement by the same proportional decrease as is being done in rule §801.142.

A commenter requested the following changes to rule §801.142; that one hour of weekly supervision be changed to four hours per month, that couples or family be defined by the client, and delete the 500 hour limitation for providing direct clinical services required for licensure.

List of interested groups or associations for the rule.

Texas Counseling Association - rules §§801.74, 801.142, and 801.263

Summary of comments for the rule.

Commenters thanked the agency for retaining rule §801.74 because they felt it was necessary for graduate student in their last semester of internship to be able to apply for approval to sit for licensing exams.

Commenters support the reduction in the amount of required hours an LMFT Associate must be providing direct clinical services to couples or families as part of their required supervised clinical experience under rule §801.142.

Commenters supported the change to rule §801.263 which allows half of the required continuing education hours to be obtained through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.

Agency Response.

The agency declines to amend rule §801.114 as requested by the commenter. The direct contact hours the commenter is requesting changed will occur during an academic degree program. The agency believes further research and study, to support such a change, will be needed before such a change can or should be proposed and adopted. For these reasons the agency

declines to make the requested changes, and hereby adopts the rule with no changes.

The agency declines to amend rule §801.142 as requested by the commenter. The rule currently includes "for good cause shown" which will allow a supervisor some flexibility when providing supervision, but the agency was concerned that allowing it on a monthly basis may result in supervisors meeting with supervisee less frequently, i.e. once per month, and the agency felt a minimum of once a week was important to ensure supervisees were competently providing services. The agency does not believe adding "as defined by the client" with regard to couples or family is necessary or helpful, the definitions rule, §801.2, already addresses such matters. Lastly, the agency believes some level of providing direct clinical services without technology is necessary to achieve competency for licensure, therefore the agency believe there needs to be a limitation placed on the amount of hours of technology assisted services that can be used for licensure purposes. For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

The agency thanks the commenters for their support of rules §§801.74, 801.142, and 801.263.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt these rules.

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

§801.142. *Supervised Clinical Experience Requirements and Conditions.*

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

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

(A) at least 1,500 hours providing direct clinical services, of which:

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

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

(B) of the 200 hours of council-approved supervision, as defined in §801.2 of this title (relating to Definitions), of which:

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

(ii) no more than 50 hours may be provided by telephonic services, but there is no limit for hours by lived video.

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

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

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

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

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

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

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

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

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

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

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

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

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706



SUBCHAPTER D. APPLICATION PROCEDURES

§§801.71 - 801.76

The Texas Behavioral Health Executive Council adopts the repeal of rules §§801.71 - 801.76, relating to Application Procedures, without changes as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4684) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this addition of the *Texas Register*.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior addition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in

these rules, therefore, the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

A commenter is concerned that by repealing rule §801.73 applicants will not have to disclose whether or not they hold a license in another jurisdiction so the Board can find out if they have been sanctioned in another jurisdiction or not.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain rule §801.73 as requested by the commenters. The Council adopted rules which do require applicants to submit a self-query report from the National Practitioner Data Bank, whereby past disciplinary history will be reported to the Council. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §§801.302, 801.303, 801.305

The Texas Behavioral Health Executive Council adopts new §§801.302, 801.303, and 801.305, relating to Schedule of Sanctions. Sections 801.302, 801.303, and 801.305 are adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4696) and will not be republished.

Reasoned Justification.

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

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

The new rules pertain to a schedule of sanctions for marriage and family therapists; and incorporate changes necessary to implement H.B. 1501. Therefore, these rules are covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt these rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption of these rules to the Executive Council. The rules are specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts these rules in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed these rules to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt these rules.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706



SUBCHAPTER E. CRITERIA FOR DETERMINING FITNESS OF APPLICANTS FOR EXAMINATION AND LICENSURE

22 TAC §§801.91 - 801.93

The Texas Behavioral Health Executive Council adopts the repeal of §§801.91 - 801.93, relating to Criteria for Determining Fitness of Applicants for Examination and Licensure, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4685). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

A commenter is concerned that by repealing §§801.91 - 801.93 the Board or Council will not have the ability to deny an applicant that is unfit for practice.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain §§801.91 - 801.93 as requested by the commenter. Under the Council's rules if an applicant does not meet the standards listed in the rules then the application will be denied, the retention of these rules is not necessary for this purpose. Additionally, the Council has rules that require an applicant provide accurate information in the application, as well as provide information concerning any future disciplinary or legal actions; therefore the Council's rules have the same or similar requirements as listed in this repealed rules. For these reasons

the agency declines to make the requested changes, and hereby adopts the repeal of the rules with no changes.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code, the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

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Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706



SUBCHAPTER F. ACADEMIC REQUIREMENTS FOR EXAMINATION AND LICENSURE

22 TAC §§801.111 - 801.115

The Texas Behavioral Health Executive Council adopts the repeal of rules §§801.111 - 801.115, relating to Academic Requirements for Examination and Licensure, without changes as published in the July 10, 2020 issue of the *Texas Register* (45 TexReg 4687) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification.

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules. Therefore, the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

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Texas State Board of Examiners of Marriage and Family Therapists

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For further information, please call: (512) 305-7706



SUBCHAPTER G. EXPERIENCE REQUIREMENTS FOR LICENSURE

22 TAC §§801.141 - 801.143

The Texas Behavioral Health Executive Council adopts the repeal of §§801.141 - 801.143, relating to Experience Requirements for Licensure, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4688). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks
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Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706



SUBCHAPTER H. EXAMINATIONS

22 TAC §801.171, §801.174

The Texas Behavioral Health Executive Council adopts the repeal of §801.171 and §801.174, relating to Examinations, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4689). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

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For further information, please call: (512) 305-7706



SUBCHAPTER I. LICENSING

22 TAC §§801.201 - 801.205

The Texas Behavioral Health Executive Council adopts the repeal of rules §§801.201 - 801.205, relating to Licensing, without changes as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4691) and will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this addition of the *Texas Register*.

Reasoned Justification.

The adopted repeal of these rules is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well

as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules; therefore, the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

Texas Counseling Association - §801.201.

Summary of comments against the rule.

Commenters requested the 30 day timeframe for processing applications and duplicate license requests, contained in §801.201, either be retained or adopted in the Council's rules.

The agency declines to retain §801.201 as requested by the commenters. The Council's rules already establish application processing timeframes; and the Council's Compact with Texans also includes an application processing timeframe which the agency strives to process all applications within 30 days of receipt of all required documents. For these reasons the agency declines to make the requested changes and hereby adopts the repeal of the rule with no changes.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003801

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: October 5, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER J. LICENSE RENEWAL, INACTIVE STATUS, AND SURRENDER OF LICENSE

22 TAC §§801.231 - 801.237

The Texas Behavioral Health Executive Council adopts the repeal of §§801.231 - 801.237, relating to License Renewal, Inactive Status, and Surrender of License, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4692). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

A commenter is concerned that if rule §801.234 is repealed the agency would not be able to grant the licensee additional time to complete continuing education requirements based on extraordinary circumstances, such as medical complications.

A commenter is concerned that if rule §801.236 is repealed a licensee returning to active status, from inactive status, and who previously had supervisory status may not know how to regain supervisory status.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain §801.234 as requested by the commenter. The concern regarding the renewal deadline for a license is covered by the Council's rules, 22 TAC Ch. 883, and any such amendment or new rule regarding renewal deadlines must be promulgated by the Council. The Council consists of two Board Members from each member Board, therefore the Council may address this concern or other issues at future Council meetings. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

The agency declines to retain §801.236 as requested by the commenter. The concern regarding the reactivation of a license is covered by the Council's rules, 22 TAC Ch. 882, and any such amendment or new rule regarding a licensee's status must be promulgated by the Council. The Council consists of two Board Members from each member Board, therefore the Council may address this concern or other issues at future Council meetings. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been

proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003802

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: October 5, 2020

Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER K. CONTINUING EDUCATION REQUIREMENTS

22 TAC §§801.261 - 801.264, 801.266, 801.268

The Texas Behavioral Health Executive Council adopts the repeal of §§801.261 - 801.264, 801.266, and 801.268, relating to Continuing Education Requirements, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4693). The rules will not be republished. This adopted repeal corresponds with the adoption of new rules elsewhere in this edition of the *Texas Register*.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202003803

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: October 5, 2020

Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER L. COMPLAINTS AND VIOLATIONS

22 TAC §§801.291 - 801.304

The Texas Behavioral Health Executive Council adopts the repeal of §§801.291 - 801.304, relating to Complaints and Violations, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4695). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

A commenter is concerned that if rule §801.304 is repealed the agency will not be able to take reciprocal discipline against a licensee who is sanctioned by another jurisdiction.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency declines to retain rule §801.304 as requested by the commenter. The Council's already allow for the agency to take reciprocal discipline against a licensee, see 22 TAC Ch. 884. For these reasons the agency declines to make the requested changes, and hereby adopts the repeal of the rule with no changes.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202003804

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER M. LICENSING OF PERSONS WITH CRIMINAL BACKGROUNDS

22 TAC §801.331, §801.332

The Texas Behavioral Health Executive Council adopts the repeal of §801.331 and §801.332, relating to Licensing Persons with Criminal Backgrounds, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4698). The rules will not be republished.

Reasoned Justification

The adopted repeal of these rules is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well

as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003805

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER N. INFORMAL SETTLEMENT CONFERENCES

22 TAC §801.351

The Texas Behavioral Health Executive Council adopts the repeal of §801.351, relating to Informal Settlement Conferences, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4699). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in this rule, therefore the repeal of this rule is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

The repeal is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not incon-

sistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed to adopt this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

§801.351. *Informal Settlement Conference.*

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003806

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



SUBCHAPTER O. FORMAL HEARINGS

22 TAC §§801.361 - 801.364

The Texas Behavioral Health Executive Council adopts the repeal of §§801.361 - 801.364, relating to Formal Hearings, without changes to the text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4700). The rules will not be republished.

Reasoned Justification

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

The Executive Council has adopted new rules, in this and a prior edition of the *Texas Register*, which concern the same subject matter and many of the same details and requirements found in these rules, therefore the repeal of these rules is necessary to implement H.B. 1501.

List of interested groups or associations against the rule repeal.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to submit the adoption of this repeal to the Executive Council. The repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

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

to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this repeal.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003807

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: October 5, 2020

Proposal publication date: July 10, 2020

For further information, please call: (512) 305-7706



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 98. TEXAS HIV MEDICATION PROGRAM

SUBCHAPTER C. TEXAS HIV MEDICATION PROGRAM

DIVISION 2. ADVISORY COMMITTEE

25 TAC §98.121

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts an amendment to §98.121, concerning the Texas HIV Medication Advisory Committee. The amendment to §98.121 is adopted without changes to the proposed text as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4702), and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The Texas HIV Medication Advisory Committee is mandated under Texas Health and Safety Code, Chapter 85, Subchapter K and advises the Executive Commissioner and DSHS in the development of procedures and guidelines for the Texas HIV Medication Program. The program helps provide medications for the treatment of HIV and its related complications for low-income Texans.

The amendment avoids abolishment of the Texas HIV Medication Advisory Committee by August 1, 2020, as prescribed in the current rule and is necessary to extend the date of Texas HIV Medication Advisory Committee abolishment from August 1, 2020, to August 1, 2030.

The adoption is also being revised to comply with Texas Government Code, §2001.039, which requires that each state agency

review and consider for re-adoption each rule adopted by that agency pursuant to the Texas Government Code, Chapter 2001 (Administrative Procedure Act). Section 98.121 has been reviewed and DSHS has determined that reasons for adopting the section continue to exist because a rule on this subject is required by statute.

COMMENTS

The 31-day comment period ended August 10, 2020.

During this period, DSHS did not receive any comments regarding the proposed rule.

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code, §85.003, which requires DSHS to act as lead agency and primary resource for AIDS and HIV policy; Texas Health and Safety Code, §85.016, which allows for the adoption of rules; Texas Health and Safety Code, §85.061, which establishes the Texas HIV Medication Program; Texas Health and Safety Code, §85.272, which establishes the Texas HIV Medication Advisory Committee and its duties; and by Texas Government Code, §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, including by DSHS. Under Texas Health and Safety Code, Chapter 1001, the DSHS Commissioner is authorized to assist the Executive Commissioner in the development of rules relating to the matters within DSHS jurisdiction. Review of the rule implements Texas Government Code, §2001.039.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2020.

TRD-202003790

Barbara L. Klein

General Counsel

Department of State Health Services

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Proposal publication date: July 10, 2020

For further information, please call: (512) 206-5745



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER O. STATISTICAL PLANS

28 TAC §5.9502

The Commissioner of Insurance adopts new 28 TAC §5.9502, relating to the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks (statistical plan). The new section is adopted with changes to the proposed text as published in the June 19, 2020, issue of the *Texas Register* (45 TexReg 4157). The rule will be republished. TDI made nonsubstantive edits to

the statistical plan in response to comments received. The statistical plan's edition name was changed to "First Edition, August 2020" to reflect that edits were made since the May 2020 version, and the proposed rule text was changed for consistency with this.

REASONED JUSTIFICATION. This adoption order changes the title of Subchapter O of 28 TAC Chapter 5 from "Texas Commercial Lines Statistical Plan" to "Statistical Plans" and adopts by reference a new statistical plan. The statistical plan will be published on TDI's website at www.tdi.texas.gov.

The rule is necessary to effectively implement Insurance Code Chapter 38, Subchapter E for statistical data collection in response to a catastrophe; standardize and streamline the catastrophe data reporting requirements to enhance efficiency and predictability for insurers and TDI; allow for better experience comparisons by TDI and the industry in general; ensure TDI has consistent, reliable information to evaluate the insurance market's health after a catastrophe; assist TDI in swiftly compiling complex data; allow for more timely analysis by TDI; and provide information about the impact of catastrophe events to policymakers.

Replacing numerous, distinct data calls with a single statistical plan for catastrophe data collection will ensure consistent, predictable, efficient data collection in the wake of a catastrophe. Implementing a single statistical plan for catastrophe data collection allows insurers to predict what data will be necessary and make business decisions about the most efficient way to report that data to avoid having to scramble during a catastrophe. The statistical plan describes the information responding insurers will provide to TDI following a catastrophe event.

This information is important to TDI's ability to evaluate the financial condition of insurers after a catastrophe and to ensure that consumers are protected. Standardized, high-quality, consistent data will result in better decision-making and more efficient solutions to determine the insurance market's health after a catastrophe. This rule will also decrease industry costs over time because it allows insurers to implement a predictable and streamlined catastrophe statistical plan and data reporting process. Associated costs represent mostly up-front costs to the insurer. Once the internal procedures are revised, an insurer will have a process in place, making future catastrophe data responses cost effective and efficient. Compared with the current one-time data call system, TDI anticipates that costs associated with catastrophe data reporting will decrease for insurers and TDI over time and will likely result in an overall reduction in costs.

Insurers, including surplus lines and farm mutual insurers, that write property or automobile insurance in Texas will report data under Insurance Code §38.001 under the statistical plan. Whether an insurer is required to report data for a catastrophe in a given year depends on the amount of Texas direct written premiums the insurer reported in the prior calendar year. This is different from previous data calls that required all insurers to report. TDI will use the premiums an insurer reported on its Annual Statement to determine whether that insurer is required to report. For an alien surplus lines insurer, TDI will use premiums provided by the Surplus Lines Stamping Office of Texas to make the determination. Insurers that are not licensed to write business in Texas or not eligible to do business in Texas on a surplus lines basis should not report data, even if the insurer has claims in Texas resulting from the catastrophe. Additionally, the statistical plan does not apply to captive insurers licensed under Insurance Code Chapter 964. Captive insurers were not

required to report under previous data calls, and they settle claims for themselves, so their exemption is consistent with previous catastrophe data call practices.

TDI will activate the statistical plan data reporting after a catastrophe in Texas. Insurers are not required to report data under the statistical plan until TDI has activated data reporting. TDI will activate reporting under Insurance Code §38.001 through a bulletin on TDI's website at www.tdi.texas.gov. The bulletin and statistical plan will provide instructions for responding insurers. These reports will be used to determine the financial impact of a catastrophe on insurers. A response made under Insurance Code §38.001 that is otherwise privileged or confidential by law, whether to a statistical agent or to TDI, remains privileged or confidential until introduced into evidence at an administrative hearing or in a court. Insurers should identify what documents are privileged or confidential in their responses.

New 28 TAC §5.9502 ensures that insurers use the new statistical plan. Previously, TDI would determine the data elements needed for each specific catastrophe event, which made requirements less predictable for insurers and meant that insurers had to program their systems to report the data after each event. This also meant that TDI received data of varying quality, requiring significant staff resources and time to clean up and organize. A statistical plan will simplify the reporting process, making reporting easier for insurers and analysis easier for TDI, which will produce more timely responses by TDI to assess the insurance market's health.

Insurance Code §38.204 and §38.207 give the Commissioner authority to adopt such a statistical plan. Additionally, under Insurance Code §38.001, TDI may address a reasonable inquiry to any insurance company or other holder of an authorization, such as a surplus lines or farm mutual insurer, about the business condition or matters TDI considers necessary for the public good or for the proper discharge of TDI's duties.

Section 5.9502(a) provides information about the rule's purpose and applicability. This subsection identifies which insurers must report under the statistical plan. This subsection also specifies that insurers are required to report their premium and loss experience after each catastrophe. This subsection is necessary to clarify the proposed rule's purpose and applicability.

Section 5.9502(b) provides information about notice to insurers if reporting under the statistical plan is activated for a specific catastrophe event. TDI will post notice under §38.001 through a bulletin on its website at www.tdi.texas.gov. This subsection is essential to notify insurers about the statistical plan activation process.

Section 5.9502(c) states that a response under §5.9502 must comply with the statistical plan. This subsection is essential to ensure that all responses comply with the statistical plan.

Section 5.9502(d) clarifies that if a submitted report is otherwise confidential by law, it will remain confidential as provided by Insurance Code §38.001(d). The rule specifies that insurers should identify which documents are privileged or confidential. This subsection is important to clarify that a response made under §38.001 that is otherwise privileged or confidential by law remains privileged or confidential until introduced into evidence at an administrative hearing or in a court.

Section 5.9502(e) adopts the statistical plan by reference. The text of this subsection was revised from the text as proposed to adopt by reference the Texas Catastrophe Event Statistical Plan

for Personal and Commercial Risks, First Edition, August 2020. This change is made to reflect that the version of the plan proposed to be adopted by reference has been revised in response to comments on the proposal.

The version of the statistical plan as adopted by reference under §5.9502(e) has been changed from the proposed version by:

- modifying the reporting requirements on page 14 of the statistical plan to require insurers to report the catastrophe name as a reported field; but companies do not need to enter it if they use the TDI reporting format where the change was made on Column B of the Licensed Insurers and Surplus Lines Insurers Tabs of the Excel Reporting Form template;

- making unknown ZIP codes standardized as "99999" on page 9 and 15 of the statistical plan and Column A of the Licensed Insurers and Surplus Lines Insurers Tabs of the Excel Reporting Form template;

- amending section 11F, now 11G, to state "without payment for each applicable ZIP code" on page 16 of the statistical plan; and

- adding clarification on the use of "all ZIP codes" to explain whether this phrase refers to only all listed ZIP codes on page 17 of the statistical plan.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: TDI received comments from two commenters.

Commenter in support of the proposed rule, with no suggested changes: Underwriters at Lloyd's, London.

Commenter in support of the proposed rule, with suggested changes: Insurance Services Office, Inc.

Comment on the Statistical Plan: In regard to the statistical plan, a commenter recommends:

- 1) having a catastrophe code indicator as part of the reported fields;

- 2) making unknown ZIP codes standardized (i.e., as "00000" or "99999");

- 3) amending section 11F to state "without payment for each applicable ZIP code";

- 4) adding clarification on the use of "all ZIP codes" to explain whether this refers to only all listed ZIP codes; and

- 5) collecting the data as a text file instead of an Excel document to reduce the likelihood of companies altering the layout.

Agency Response: TDI agrees in part and disagrees in part with the comment.

In regard to having a catastrophe code indicator as part of the reported fields, TDI agrees to make a change, though different from what was requested. In the version of the statistical plan adopted by reference, the reporting form does not have a catastrophe code indicator but instead has a catastrophe name. TDI modified the form so that the catastrophe name shows up as a reported field, but companies do not need to enter it if they use the TDI reporting format.

TDI agrees to make unknown ZIP codes standardized as ""99999," amend section 11F as 11G and to state "without payment for each applicable ZIP code," and to add clarification on the use of "all ZIP codes" to explain whether this refers to only all listed ZIP codes. The version of the statistical plan adopted by reference includes these changes.

5) TDI does not agree that the data should be collected as a text file instead of an Excel document. A text file does not have built-in reasonability checks, which allow companies to see whether their submission will pass certain data checks. The Excel template is locked for editing and password protected. In addition, the statistical plan allows the statistical agent to establish alternate formats, including text files, while also allowing insurers to submit the Excel template. Therefore, TDI declines to make the requested change.

Comment on §5.9502: A commenter writes in support of the rule. The commenter commends TDI for publishing the statistical plan and stating the plan's expectations in advance of a catastrophe. The commenter expresses belief that this proposal will lead to standardized, high-quality, consistent data delivered in a more efficient process.

Agency Response: TDI appreciates the support and will continue to work to produce high-quality data in an efficient manner.

STATUTORY AUTHORITY. The Commissioner adopts new 28 TAC §5.9502 under Insurance Code §§38.001, 38.202, 38.204-38.207, and 36.001.

Insurance Code §38.001 authorizes TDI to address a reasonable inquiry to any insurance company or other holder of an authorization, such as a surplus lines or farm mutual insurer, relating to the business condition or any matter TDI considers necessary for the public good or for the proper discharge of TDI's duties. This section also specifies that a response made under this section that is otherwise privileged or confidential by law remains privileged or confidential until introduced into evidence at an administrative hearing or in a court.

Insurance Code §38.202 allows the Commissioner to designate a statistical agent to gather data for relevant regulatory purposes or as otherwise provided by the Insurance Code.

Insurance Code §38.204 requires a designated statistical agent to collect data from reporting insurers under a statistical plan adopted by the Commissioner.

Insurance Code §38.205 provides that insurers must provide all premium and loss cost data to the Commissioner or designated statistical agent.

Insurance Code §38.206 authorizes the statistical agent to collect from reporting insurers any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurer.

Insurance Code §38.207 authorizes the Commissioner to adopt rules necessary to accomplish the purposes of Insurance Code Chapter 38, Subchapter E.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

§5.9502. *Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks.*

(a) Purpose and applicability.

(1) The purpose of this section is to establish requirements for the reporting of catastrophe-related data by insurers under Insurance Code Chapter 38, Subchapter E and Insurance Code §38.001.

(2) This section applies to all reports required to be filed under the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks for reporting dates beginning on or after the effective date of the plan. Insurers must report their claim and loss experience after each specified catastrophe event. Insurers are not required to report data under the statistical plan until TDI has activated the statistical plan for a specific event and requested information under Insurance Code §38.001 through a bulletin on TDI's website at www.tdi.texas.gov.

(b) Data reporting notice. TDI will notify insurers, including surplus lines and farm mutual insurers, of data reporting under the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks by posting a data request under Insurance Code §38.001 through a bulletin on TDI's website at www.tdi.texas.gov.

(c) Response requirements. A response must comply with the reporting requirements and instructions specified in the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks adopted by reference in subsection (e) of this section.

(d) Confidential information. Under Insurance Code §38.001(d), a response made under this section, whether to a statistical agent or to TDI, that is otherwise privileged or confidential by law remains privileged or confidential until introduced into evidence at an administrative hearing or in a court. Insurers should identify what documents are privileged or confidential in their responses.

(e) Adoption by reference. The Commissioner adopts by reference the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks, First Edition, August 2020. This document is published by TDI and is available on TDI's website at www.tdi.texas.gov.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Department of Insurance

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