

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



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Andoni Zagouris, M.A.
McAllen

EXECUTIVE DIRECTOR
Darrel D. Spinks

BOARD MEETING AGENDA

August 13, 2020

333 Guadalupe, Suite 2-450E
Austin, Texas 78701

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

Members of the public will have access and a means to participate in this meeting, by two-way communication, by entering the URL address <https://zoom.us/j/92262119794> into their web browser or by calling (346) 248-7799 and entering the webinar/meeting ID 922 6211 9794. Additional telephone numbers and videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at www.tsbep.texas.gov prior to the meeting. A recording of the meeting will be available after the meeting is adjourned. To obtain a recording, please contact Brenda Skiff, at Open.Records@tsbep.texas.gov.

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

In the event Governor Greg Abbott's March 13, 2020 disaster declaration is not renewed or expires prior to August 13th, then pursuant to Tex. Gov't Code Ann.

***Topic requiring either agency action or discussion.**

333 Guadalupe, Suite 2-450, Austin, Texas 78701
(Administration) 512-305-7700 (Enforcement) 512-305-7709 (TDD) 1-800-735-2989
(Fax) 512-305-7701 <http://www.tsbep.texas.gov>

The Texas State Board of Examiners of Psychologists is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, age, sex, disability, or sexual orientation.

§551.127, notice is hereby given that one or more Board members may appear at the scheduled meeting via videoconference call, but the presiding officer will be physically present at 333 Guadalupe St., Ste. 2-450E, Austin, Texas 78701. This location will be open to the public only in the event the March 13th disaster declaration is not renewed.

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

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Board at least 5 working days before the meeting date. Phone: (512) 305-7700, FAX: (512) 305-7701, E-MAIL: Deputy.ED@tsbep.texas.gov, TTY/RELAY TEXAS: 711 or 1-800-RELAY TX.

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

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

Thursday, August 13th, 10:00 a.m.

I. Meeting Called to Order - Tim F. Branaman, Ph.D., Chair

Roll call for Members

II. Public Comments - Public comment is limited to three (3) minutes per individual, unless otherwise directed by the Board Chair.

III. Approval of Minutes*

IV. Chair's Report - Dr. Branaman

- A. Introduction of new Program Specialist V (Executive Director) for TSBE
- B. ASPPB Update
- C. Update Regarding PSYPACT
- D. Update on Texas Behavioral Health Executive Council Operations

V. Executive Director's Report - Mr. Spinks

- A. Operations Update
 - 1. Discussion regarding changes to calligraphy licenses
- B. Budget Update
 - 1. Q3 Performance Measures for FY2020
 - 2. Year-to-Date Financial Report
- C. Update on Effect of Governor Abbott's Disaster Declaration

***Topic requiring either agency action or discussion.**

VI. Rules - Drs. Branaman and Palomares

- A. New Rules or Rule Changes Being Considered for Recommendation to the Executive Council*
 - 1. 22 TAC 463.30, Examinations Required for Licensure
 - 2. 22 TAC 463.31, Minimum Passing Scores for Examinations
- B. Rules Published in the Texas Register and Awaiting Adoption Recommendations*
 - 1. Proposed rule changes to 22 TAC, Part 21, as published in the July 10, 2020 edition of the Texas Register, together with all public comments received

VII. Enforcement Matters and Report from General Counsel

Enforcement Staff:

- A. Review of Dismissals by Executive Director
- B. Review of Dismissals Recommended for Board Ratification*
- C. Status Reports
- D. Changes to Projected Time Schedules
- E. Upcoming ISC Panels*

General Counsel:

- F. Agreed Order Ratifications*
- G. Review of Resignations Approved by Executive Director
- H. Review of Contested Cases from the State Office of Administrative Hearings*

Temporary Suspensions:

The agency may conduct a closed meeting to seek legal advice from its attorney(s) pursuant to Tex. Gov't Code Ann. §551.071, and to review evidence or information in connection with a recommendation for temporary suspension of a licensee pursuant to Tex. Occ. Code Ann. §501.402 and 22 Tex. Admin. Code, Pt. 21, §469.6.

VIII. Compliance - Dr. Mock and Mr. Adler

- A. Review of Compliance with Agreed Orders

IX. Jurisprudence Examination Committee - Dr. Fletcher and Ms. Downes

No new matters to report.

***Topic requiring either agency action or discussion.**

X. Applications Committee - Dr. Palomares and Mr. Zagouris

- A. Application for Reinstatement of a License by J.J.K.,
Ph.D.

XI. Personnel Committee - Mr. Bridges

No new matters to report.

XII. Future Issues and Other Requested Agenda Items

- A. Requests from Board Members for Future Agenda Items
- B. Discussion regarding newsletter article about Board
rule 465.22* (*discussion to be led by Dr. Fletcher*)

XIII. Meeting Adjourned

***Topic requiring either agency action or discussion.**

Addendum: Additional Videoconference and Telephone Conference Call Information

Regular meeting of the Texas State Board of Examiners of Psychologists.

When: Aug 13, 2020 09:00 AM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Psychologists August 13, 2020 Board Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/92262119794>

Or iPhone one-tap :

US: +13462487799,,92262119794# or +12532158782,,92262119794#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 922 6211 9794

International numbers available: <https://zoom.us/j/92262119794>

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Texas State Board of Examiners of Psychologists

MINUTES

May 14, 2020

The Texas State Board of Examiners of Psychologists met via Zoom video conference on May 14, 2020. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; Herman Adler, M.A.; John Bielasowicz; Ryan Bridges; Angela Downes, J.D.; Susan Fletcher, Ph.D.; Lou Ann Todd Mock, Ph.D., Vice-Chair; Ronald Palomares, Ph.D. and Andoni Zagouris, M.A. Also, in attendance was Darrel Spinks, Executive Director.

Thursday, May 14, 2020

1. The meeting was called to order at 10:00 a.m. by Dr. Branaman.
2. The Board moved into Item II, Public Comments:
 - A. Kelly Jones - spoke regarding child custody complaint process.
 - B. Shirley Willis - spoke regarding procedural issues.
 - C. Rhonda Finney - spoke regarding concerns for the proposed forensic evaluation rule.
 - D. Adrienne Tinder - spoke regarding the proposed rules and the improved process. Thanked the Board for its hard work.
 - E. Aaron Robb - spoke regarding the proposed child custody evaluations. Thanked the Board.

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- F. Mia Overton - spoke regarding child custody evaluations.
- G. John Norton - spoke regarding child custody evaluations.
- H. Alison Gersch - spoke regarding child custody evaluations.
- I. Alyssa Karsagi - speaking regarding child custody evaluations.
- J. Benjamin Albritton, Ph.D. - spoke regarding support of the proposed child custody evaluation rule. Thanked the Board its hard work.
- K. Christy Bradshaw Schmidt - spoke regarding child custody evaluations.
- L. David Hill - thanked the Board for protecting the public.
- M. Dave Jones - spoke regarding child custody evaluations.
- N. Edward Silverman - spoke in favor of the proposed rules regarding child custody evaluations.
- O. Elizabeth Vecseri - friend of Alyssa Karsagi spoke regarding child custody evaluations.
- P. Frances Douglas - thanked the Board for its work and also in favor of the child custody evaluation rule.
- Q. Jeff Morgan - spoke regarding child custody evaluators.
- R. Jeff Younger - spoke regarding child custody evaluators.
- S. Jennifer Bassett - spoke regarding child custody evaluators.
- T. Jessica Magee - spoke regarding child custody evaluations.
- U. Jim Craig - spoke regarding child custody evaluations.
- V. Wanda Patrick - spoke regarding child custody evaluations.
- W. Christopher Shane Patrick - spoke regarding neuropsychology qualifications.
- X. Kevin Stewart - thanked the Board for the work they were doing.

- Y. Keri White - spoke regarding child custody evaluations.
 - Z. Salina Harp - spoke regarding child custody evaluations.
 - AA. Sandy Roland - thanked the Board for its hard work regarding the proposed rules.
 - BB. Stephanie Gibson - spoke opposing the proposed child custody rules.
 - CC. Tara Coronado - spoke regarding child custody complaints.
 - DD. Victoria Harvey - spoke in favor of the proposed rules.
 - EE. Cynthia Sevalls - spoke regarding child custody evaluations.
3. The Board moved into Item III, Meeting Minutes and Certified Agenda.
- A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE MINUTES OF THE FEBRUARY 13, 2020 BOARD MEETING WITH CHANGES. THE VOTE CARRIED WITH MS. DOWNES ABSENT FROM THE VOTE.
- A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE CERTIFIED AGENDA OF THE FEBRUARY 13, 2020 BOARD MEETING. THE VOTE WAS APPROVED UNANIMOUSLY.
4. The Board moved into Item IV, Chair's Report - Dr. Branaman.
- A. ASPPB Update:
 - i. Dr. Branaman stated that the ASPPB annual meeting of delegates to be held in New York City on October 14-18, 2020, has been canceled due to COVID-19.
 - ii. Dr. Branaman would represent the Board at the ASPPB ASPPB mid-year meeting via Zoom.
 - B. Update regarding PsyPact:
 - i. Mr. Hyde updated the Board:
 - a. E. Passport will start on July 1, 2020;
 - b. November meeting will be in Georgia; and

- c. Operation rules were adopted - only licensed psychologists from an APA program are eligible (foreign graduates can be evaluated for substantial equivalency under NACES) were discussed at the February meeting. Future discussion is planned for this item.
- C. Update regarding Texas Behavioral Health Executive Council Operations:
 - i. Mr. Spinks updated the Board regarding Council actions/future actions:
 - a. The Council's proposed rules were submitted;
 - b. Rules were sent to the Governor's office and Ms. Bennett to review for anti-competitive regulatory compliance;
 - c. Marriage and Family Therapist rules will be sent in June;
 - d. Professional Counselor Board will meet on May 15, 2020, to discuss proposed rules;
 - e. All managers positions have been filled;
 - f. UAT testing will be done in June;
 - g. Little concern over the backlog of applications and complaints due to COVID-19; HHSC stated application backlog will probably get better since the approval of overtime and complaints are still backlogged; and
 - h. 3 Council members will be replaced once the Governor's office makes the new appointments.
- D. Dr. Branaman discussed the viability of the EPPP2 examination and whether to proceed with the prior decision to adopt the enhanced EPPP and EPPP2. Mr. Spinks stated that the rule would have to be sent to the Governor Budget and Policy Division and Regulatory Compliance Division in addition to the Council.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY DR. PALOMARES

TO MOVE FORWARD WITH THE EPPP2 EXAMINATION. THE MOTION WAS APPROVED UNANIMOUSLY. DR. FLETCHER WILL ASSIST IN WRITING LETTER SUPPORTING THE NEED FOR THE EPPP2.

RULES COMMITTEE WILL NEED TO DEVELOP RULE FOR EPPP2 EXAMINATION FOR AUGUST BOARD MEETING.

E. Mr. Spinks discussed the impact of COVID-19 on agency operations:

i. Staff have been rotating in/out of the office and phones diverted to voicemail of the receptionist and then forwarded to the appropriate staff.

ii. Mail is slower through TPASS; and

iii. Suspending some rules regarding temporary licensure.

F. Dr. Palomares discussed the Professional Development Rules Advisory Committee. He wanted to thank the members that participated and that the committee did not recommend any changes to the professional development rule.

5. The Board moved into Item V, the Executive Director's Report - Mr. Spinks

A. Mr. Spinks stated staff was working remotely and it was going well.

B. The Board reviewed the Customer Service Survey.

C. The online renewal simplification process has been completed.

D. Budget Update:

i. Mr. Spinks reviewed the 2nd Qtr. Performance Measures for FY 2020.

ii. Mr. Spinks reviewed the Year-to-Date Financial report.

The Board recessed for a break at 12:54 p.m.

The Board reconvened from a break at 1:10 p.m.

6. The Board moved into Item VI, Rules - Dr. Branaman, and Dr. Palomares.

A. The Board reviewed the Repealed Rules:

i. Repeal Chapters 461, 463, 465, 469, 470, 473, 471.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE REPEALS. THE VOTE WAS APPROVED UNANIMOUSLY.

B. The Board reviewed the Proposed Rules:

i. Chapter 463, Applications and Licensing.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE PROPOSED NEW RULES. THE VOTE CARRIED WITH MR. ADLER ABSENT FROM VOTING.

ii. Chapter 465, Rules of Practice.

A MOTION WAS MADE BY DR. PALOMARES AND SECONDED BY MR. BRIDGES TO APPROVE THE PROPOSED NEW RULES. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. Chapter 470, Schedule of Sanctions.

A MOTION WAS MADE BY MR. ADLER AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

C. The Board discussed the reduction in the number of internship hours required for licensure (LP and LSSP) for interns affected by COVID-19, together with any other rule changes needed to ensure qualified applicants continue to meet license eligibility requirements.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BRIDGES TO APPROVE THE PROPOSED LANGUAGE. THE VOTE CARRIED WITH DR. BRANAMAN ABSTAINING FROM VOTING.

7. The Board moved into Item VII, Enforcement Matters and Report from General Counsel.

A. Mr. Fernandez presented the cases dismissed by the Executive Director:

i. 2020-00003-2144;
ii. 2019-00014;
iii. 2020-00004-9966;
iv. 2020-00056-4894;
v. 2020-00064-10579;
vi. 2020-0009-7580;
vii. 2019-00119-8056;
viii.2020-00068-277;
ix. 2020-00051-4628;
x. 2019-00110-1168;
xi. 2020-00063-374;
xii. 2019-00047-133;
xiii.2018-0091-10690;
xiv. 2018-00109-9377;
xv. 2019-00005-13939;
xvi. 2019-00043-10646;
xvii.2020-00014-4718;
xviii.2018-00096-374;
xix. 2018-00123-2092;
xx. 2020-00015-9486;
xxi. 2020-00040-10100;
xxii.2019-00094-10931;
xxiii.2020-00075-8056;
xxiv.2019-00082-6247;

xxv. 2019-00056-8534;
xxvi.2019-00064-8534;
xxvii.2020-00035-5363;
xxviii.2020-00038-6610;
xxix.2019-00079;
xxx. 2020-00034-10329
xxxi.2020-00054-9806;
xxxii.2019-00078-3057;
xxxiii.2019-00086-10991;
xxxiv.2019-00039-659;
xxxv.2019-00084-659;
xxxvi.2019-00085-658;
xxxvii.2019-00041-658;
xxxviii.2019-00133-3151;
xxxix.2019-00031-1004;
xl. 2019-00070-9966;
xli. 2019-00100-9966;
xlii.2020-00077-14248;
xliii.2019-00101-13268;
xliv.2019-00115; and
xlv. 2019-00118

B. Mr. Fernandez presented the dismissal recommendation for Board ratification:

i. 2020-00041-8109; 2019-00058-2468; and 2019-0006-10129

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MR. BRIDGES TO APPROVE THE DISMISSAL. THE VOTE CARRIED WITH MR. BIELAMOWICZ, MR. ZAGOURIS AND DR. FLETCHER RECUSED FROM VOTING.

- C. Mr. Fernandez reviewed the Status Report.
- D. Mr. Fernandez discussed the Projected Time Schedule.
- E. August 2020 ISC attendees will be Dr. Palomares, Mr. Adler, and Mr. Bridges.
- F. November 2020 ISC attendees will be Dr. Mock, Mr. Zagouris, and Mr. Bielamowicz.
- G. February 2021 ISC attendees will be Dr. Fletcher, Mr. Zagouris, and Mr. Bridges.
- H. May 2021 ISC attendees will be Dr. Fletcher, Mr. Bielamowicz, and Mr. Zagouris.
- I. Mr. Hyde presented the Agreed Orders for the Board's approval:
 - i. The Board reviewed Agreed Order No. 2020-00042-12963, in the matter of Chanika Nicole Martin, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE AGREED ORDER. THE VOTE WAS APPROVED UNANIMOUSLY.

- ii. The Board reviewed Agreed Order No. 2020-00073-8370, in the matter of Jimmie Whitley, Ed.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. PALOMARES AND MR. ZAGOURIS RECUSED FROM VOTING.

- iii. The Board reviewed Agreed Order No. 2019-00116-13984, in the matter of Laura Lynn Greenlee, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. PALOMARES TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. FLETCHER, MR. ADLER AND MR. BRIDGES RECUSED FROM VOTING.

- iv. The Board reviewed Agreed Order No. 2018-00117-4023, in the matter of John H. Herman, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. FLETCHER, MR. ADLER AND MR. BRIDGES RECUSED FROM VOTING.

- v. The Board reviewed Agreed Order No. 2020-00025-15552, in the matter of Thomas James McCaffrey, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. FLETCHER, MR. ADLER AND MR. BRIDGES RECUSED FROM VOTING.

- vi. The Board reviewed Agreed Order No. 2018-00114-10249, in the matter of Douglas W. Sanders, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. FLETCHER, MR. ADLER AND MR. BRIDGES RECUSED FROM VOTING.

- vii. The Board reviewed Agreed Order No. 2018-00059-3086 and SOAH Docket No. 520-18-4894, in the matter of Karen A. Sitterle, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. PALOMARES, MR. ADLER AND MR. BIELAMOWICZ RECUSED FROM VOTING.

- 8. The Board moved into Item VIII, Compliance - Dr. Mock and Mr. Adler - two issues, but currently working on them.
- 9. The Board moved into Item IX, Jurisprudence Examination Committee - no items to discuss.
- 10. The Board moved into Item XI, Personnel Committee - Mr. Bridges.
 - A. Mr. Bridges stated that within the next 10 days interviews would be conducted regarding the Program Specialist position for the Psychology Board. Dr. Branaman, Dr. Palomares, and Mr. Bridges would be conducting the interviews.
- 11. The Board moved into Item XII, Future Issues and Other Requested Agenda Items.
 - A. Legislative issues this next session would be budget, technology, and redistricting.
 - B. Mr. Spinks be plans to attend future Psychology Board meetings.

12. The meeting was adjourned at 3:40 p.m. by Dr. Branaman.



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

Fwd: UPDATED Board Chair Meeting July 2, 2020 - Please disregard previous message

Tim F. Branaman, Ph.D <drtimbranaman@gmail.com>
To: Ron Palomares <rsp9090@gmail.com>
Cc: Darrel Spinks <Executive.Director@tsbep.texas.gov>

Thu, Jul 16, 2020 at 4:25 PM

See update below

----- Forwarded message -----

From: **Candace Ohlmeier** <cohlmeier@asppb.org>

Date: Thu, Jul 16, 2020 at 3:18 PM

Subject: UPDATED Board Chair Meeting July 2, 2020 - Please disregard previous message

To: <ASPPB-BDCOLLEGE-CHAIRS@listserv.asppb.org>

Dear Colleagues,

Peter asked me to post the notes (see below) from your meeting on the Board Chairs listserv. Thanks to all of you who were able to attend the meeting - it was great to see you all. For those of you who weren't able to make the meeting, the next Board Chair meeting will be held by Zoom sometime around the ASPPB Annual Meeting in October. The plan is to have 4 meetings each year - two at (or around the time of) our Membership Meetings and two by Zoom.

Hope to see you all at the October Zoom meeting.

Jackie

Board Chairs Meeting**July 2, 2020****Attending:**

Peter Oppenheimer – Rhode Island - Chair

David Hamilton – New York (Board Administrator)

Sandra Stroebe – West Virginia

Ken Gillman – New Mexico

Tim Branaman – Texas

Stacy Waldron – Nebraska

Jamie Hopkins – Kentucky

Dan Schroeder – Wisconsin

Charles Penwell – Newfoundland/Labrador

Loretta Bolyard – Montana

Tammy Shreeve – Arizona

Todd Moore – Tennessee

Rick Small – Pennsylvania

Whitney Owens – Nevada

Cheryl Prevendar Zuber

Ronald Miller – Vermont

Mary Harb Sheets – California

Ed Kleitsch – Arkansas

Neil Pliskin – Illinois

Esther Saville – Wyoming

Sherry Sutherland – Hawaii

Tony Jimenez – District of Columbia

Michael Grand – Ontario

Alex Siegel – ASPPB Director of Professional Affairs

Tomas Granados – ASPPB Board of Directors - President-Elect

Jackie Horn – ASPPB Director of Educational Affairs

COVID-19 Discussion:

For jurisdictions having in-person CE requirements, most have made accommodations during the pandemic to allow all CE to be earned by tele-means. All jurisdictions at the meeting are allowing tele-supervision and tele-therapy during pandemic, and jurisdictions that have adopted PSYPACT talked about how much that has helped now and will help going forward. Jackie and Peter shared with the group that ASPPB has formed a task force that has met with leaders in the education, training and practice communities to learn about how the COVID-19 pandemic is impacting students and trainees, and their efforts to get licensed. We discussed that the task for is now gathering information and that the Task Force will propose guidelines to address potential unintended consequences and promote consistency among jurisdictions in how they will address the experiences of applicants whose education or training has been affected by the pandemic in the future.

Several jurisdictions in the U.S. have had their Board meetings cancelled or suspended indefinitely, while many others are using Zoom or Go to Webinar platforms that allow for confidentiality. Several jurisdictions have been holding meetings by conference calls that allow the public to participate. Apparently, there are differences among the U.S. jurisdictions in how “public participation” is understood/interpreted.

During this discussion, several attendees mentioned the increase in anti-regulatory voices in their jurisdictions including new proposals for omnibus Mental Health boards to take the place of Psychology boards.

The Canadian attendees discussed how Colleges operate differently from Boards in that they're established by the government in their provinces, but then function fairly independently. They make decisions about meeting or not meeting, and do not need Executive Orders to decide how to accommodate for COVID-related changes in education, supervision, etc.

Questions for Alex about Laws/Rules:

Alex responded to some issues that had been raised earlier – omnibus boards, PSYPACT/telehealth, EPPP2.

Re the formation of omnibus boards, he told attendees that he's testified in front of state legislatures, worked with boards, offered letters of support, etc., about consolidating. Currently the only jurisdiction to have an omnibus board is Nebraska. All other jurisdictions that have had consolidated boards have gone back to individual psychology boards for a host of reasons.

Alex discussed PSYPACT and what it would offer states that adopt it – a way to track and have jurisdiction over people practicing interjurisdictionally by tele-means. The reason the compact is only between the states is that, if Canada were included, PSYPACT would become a treaty between Canada and the U.S. Canada, because of their rule that someone licensed as a psychologist in one province must be able to be licensed as a psychologist in any province, has a different necessity for allowing interjurisdictional tele-practice.

Re the EPPP2, Alex talked about some of the difficult decisions that Board/Colleges will have to make as they become adopters of the Part 2, including how jurisdictions will deal with someone who was licensed before the Part 2 becomes available but wants to move to a jurisdiction that is now using the Part 2. Will that person be able to become licensed in the new jurisdiction using the Part 2 even if they never took that exam? He suggested these issues will need to be worked out and recommended discussing such issues with Board attorneys. Canada, again because of the different requirements that already might be in place province to province, has to accept a psychologist who's registered in any province regardless of individual provincial requirements.

To add to Alex's discussion about the EPPP2, Jackie indicated that ASPPB had recommended that those jurisdictions that are early adopters of the EPPP2 not require already licensed psychologists who move to their jurisdictions to take the Part 2 if those psychologists were licensed before the new jurisdiction itself began requiring the Part 2. However, as Alex indicated, this issue should be discussed with Board attorneys.

From the ASPPB Board or to the ASPPB Board:

Tomas told attendees that the ASPPB Annual Meeting will be a virtual meeting and expressed the hope that people who wouldn't normally be able to attend the meeting in person might be able to attend the virtual meeting. He discussed some of the programs ASPPB has been involved in and thanked Board Chairs for their participation.

Other Issues:

Jackie discussed the information she collected about educational requirements for licensure to be included on the ASPPB website for use by training programs in the U.S. She asked attendees if they would take a look at the information to ensure the information is correct. All agreed to do that.

Chair Rotation:

Peter explained the rotation – each Chair serves a two-year term - for the Board Chairs Meeting and indicated that he will serve as the Chair again in 2021. A new Chair will be selected at the 2021 Annual Meeting.

The group agreed that meeting at both the Annual and Midyear Meetings and having Zoom meetings between the membership meetings was a good idea. The next Board Chairs Meeting will be held around the time of this year's Annual Meeting in October.

Jacqueline Horn, PhD

ASPPB Director of Educational Affairs

3010 I Street #5

Sacramento, CA 95816

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916-447-8783

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Paper: 32 lb ivory parchment paper
8 1/2 x 11



Texas State Board of Examiners of Psychologists

← Replace with
BHEC Seal

Be it known that

[Redacted]

SSP

Having given satisfactory evidence of qualifications
as required by the Psychologists' Licensing Act
is hereby authorized to practice psychology in Texas as a

Standardized
wording reflecting
Psychology Texas
Occupation Code

Licensed Specialist in School Psychology

Given under the hand and seal of the
Texas State Board of Examiners of Psychologists
this 31st day of May, 2019



Change in
wording

All signatures
would be removed
and replaced
with
only Board chair
signature

E. Brannaman, Ed.D.

Donna L. Black, M.A.

Steven J. PhD

Lee G. Todd, Ph.D. Chair

Debra Campbell, M.S.

John Hill

John B. [Signature] Vice Chair

Angela Adkins Dawnes, JD

Alfred S. Palmer

Moved

License No. [Redacted]

David D. Spinks

Executive Director

Effective:

**3rd QUARTER PERFORMANCE MEASURES
FISCAL YEAR 2020**


Submitted to the
Governor's Office of Budget and Planning
and the Legislative Budget Board

by

Board of Examiners of Psychologists

June 22, 2020


Executive Director


Date

Efficiency/Output Measures with Cover Page and Update Explanation
86th Regular Session, Performance Reporting
Automated Budget and Evaluation System of Texas (ABEST)

6/22/2020 8:55:44 AM

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
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Output Measures

1-1-1 LICENSING

1 # NEW LICENSES ISSUED

Quarter 1	600.00	212.00	212.00	35.33 % *	120.00 - 180.00
------------------	--------	--------	--------	-----------	-----------------

Explanation of Variance: FACTORS CAUSING THE VARIANCE

The performance for this measure for the first quarter of FY 2020 exceeds its target. This is typical each year, as the agency receives the majority of its applications for Licensed Specialist in School Psychology during the 4th quarter and many are approved during the 1st quarter of the following fiscal year. Additionally the 86th Legislature lowered this target for the 2020-2021 biennium.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE

The agency cannot predict how many applications it will receive, but will continue to process all qualified applicants in a timely manner. The agency expects to continue to meet or exceed this target during this year, especially since the target was lowered by the 86th Legislature.

* Varies by 5% or more from target.

Efficiency/Output Measures with Cover Page and Update Explanation
86th Regular Session, Performance Reporting
Automated Budget and Evaluation System of Texas (ABEST)

6/22/2020 8:55:41AM

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
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Output Measures

1 # NEW LICENSES ISSUED

Quarter 2	600.00	163.00	375.00	62.50 % *	270.00 - 330.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE

The performance for this measure for the second quarter of FY 2020 is within the range we expect, however this measure year to date still exceeds its target, due to the number of licenses issued during the first quarter. This is typical each year, as the agency receives the majority of its applications for Licensed Specialist in School Psychology during the 4th quarter and many are approved during the 1st quarter of the following fiscal year. Additionally the 86th Legislature lowered this target for the 2020-2021 biennium.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE

The agency cannot predict how many applications it will receive, but will continue to process all qualified applicants in a timely manner. The agency expects to continue to meet or exceed this target during this year, especially since the target was lowered by the 86th Legislature.

Quarter 3	600.00	134.00	509.00	84.83 % *	420.00 - 480.00
------------------	--------	--------	--------	-----------	-----------------

Explanation of Variance: FACTORS CAUSING THE VARIANCE

The performance for this measure for the third quarter of FY 2020 is within the range we expect, however this measure year to date still exceeds its target, due to the number of licenses issued during the first quarter. This is typical each year, as the agency receives the majority of its applications for Licensed Specialist in School Psychology during the 4th quarter and many are approved during the 1st quarter of the following fiscal year. Additionally the 86th Legislature lowered this target for the 2020-2021 biennium.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE

The agency cannot predict how many applications it will receive, but will continue to process all qualified applicants in a timely manner. The agency expects to continue to meet or exceed this target during this year, especially since the target was lowered by the 86th Legislature.

* Varies by 5% or more from target.

Efficiency/Output Measures with Cover Page and Update Explanation
86th Regular Session, Performance Reporting
Automated Budget and Evaluation System of Texas (ABEST)

6/22/2020 8:55:41AM

Agency code: 520

Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
Output Measures					
2 # LICENSE RENEWALS					
Quarter 1	8,800.00	2,274.00	2,274.00	25.84 %	1,760.00 - 2,640.00
Quarter 2	8,800.00	2,303.00	4,577.00	52.01 %	3,960.00 - 4,840.00
Quarter 3	8,800.00	2,313.00	6,890.00	78.30 %	6,160.00 - 7,040.00
2-1-1 ENFORCEMENT					
1 COMPLAINTS RESOLVED					
Quarter 1	130.00	36.00	36.00	27.69 %	26.00 - 39.00

* Varies by 5% or more from target.

Efficiency/Output Measures with Cover Page and Update Explanation
86th Regular Session, Performance Reporting
Automated Budget and Evaluation System of Texas (ABES1)

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
Output Measures					
1 COMPLAINTS RESOLVED					
Quarter 2	130.00	38.00	74.00	56.92 % *	58.50 - 71.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

The performance for this measure for the second quarter of FY 2020 exceeds its target by 7%. The agency enforcement staff been diligently working through its backlog of 2018 complaints. Additionally, the agency has recently hired a new staff attorney to assist with the investigation and resolution of complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The agency enforcement staff have begun investigating the more substantial complaints created during FY 2018. These substantial complaints typically take longer to investigate and resolve, however, with the addition of the new staff attorney the agency expects to continue to meet or exceed this measure for the remainder of the fiscal year.

Quarter 3	130.00	56.00	130.00	100.00 % *	91.00 - 104.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

The performance for this measure for the second quarter of FY 2020 exceeds its target. The agency enforcement staff been diligently working through its backlog of 2018 complaints. Additionally, during this quarter the agency had an additional licensing staff working on complaints during telecommuting days. Also, the agency has recently hired a new staff attorney to assist with the investigation and resolution of complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The agency enforcement staff have begun investigating the more substantial complaints created during FY 2018. These substantial complaints typically take longer to investigate and resolve, however, with the addition of the new staff attorney the agency expects to continue to meet or exceed this measure for the remainder of the fiscal year.

* Varies by 5% or more from target.

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
-----------------------	----------------	----------------	-------------	-----------------------------	--------------

Efficiency Measures

2.1-1 ENFORCEMENT

1 AVG TIME/COMPLAINT RESOLUTION

Quarter 1	275.00	389.00	389.00	141.45 % *	261.25 - 288.75
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

The performance for this measure for the first quarter of FY 2020 exceeds the target. During this quarter the agency resolved 16 complaints from FY 2018, of which 13 were over 500 days old. The agency no longer opens high volume, non-substantive complaints (e.g., CE complaints), so the entirety of the agency's complaint caseload consists of substantive complaints which typically take much longer to investigate. Additionally, the agency has been unable to hire a new staff attorney to assist with the investigation and resolution of complaints. The agency had anticipated hiring a new staff attorney who could help the agency meet this target, but the agency is struggling with recruiting an attorney in a highly competitive job market for employers.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The agency enforcement staff have begun investigating the more substantial complaints created during FY 2018. These substantial complaints typically take longer to investigate and resolve, thus the reason for the average of 389 days to resolve a complaint during this quarter. The agency anticipates that it will continue to exceed this measure until it can hire a new staff attorney. The agency has reduced the minimum qualifications for its staff attorney position and expanded the locations where the job opening is posted, in hopes this will assist with recruiting a qualified staff attorney who can then help the agency meet this target.

* Varies by 5% or more from target.

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
Efficiency Measures					
1 AVG TIME/COMPLAINT RESOLUTION					
Quarter 2	275.00	356.00	372.00	135.27 % *	261.25 - 288.75

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

The performance for this measure for the second quarter of FY 2020 exceeds the target. During this quarter the agency resolved 13 complaints from FY 2018, all of which were over 500 days old. The agency no longer opens high volume, non-substantive complaints (e.g., CE complaints), so the entirety of the agency's complaint caseload consists of substantive complaints which typically take much longer to investigate. The agency has recently hired a new staff attorney to assist with the investigation and resolution of complaints. However, there is a training curve to learn the laws, rules and processes of the enforcement division.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The agency enforcement staff have begun investigating the more substantial complaints created during FY 2018. These substantial complaints typically take longer to investigate and resolve, thus the reason for the average of 356 days to resolve a complaint during this quarter. However, this is less than the average complaint resolution time of 389 days that it took during the first quarter. The agency anticipates that it will continue to exceed this measure until its new staff attorney is fully trained.

* Varies by 5% or more from target.

Agency code: 520 Agency name: Board of Examiners of Psychologists

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME/COMPLAINT RESOLUTION

Quarter 3	275.00	331.00	354.00	128.73 % *	261.25 - 288.75
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

The performance for this measure for the third quarter of FY 2020 exceeds the target. During this quarter the agency resolved 14 complaints from FY 2018, 12 of which were over 500 days old. The agency no longer opens high volume, non-substantive complaints (e.g., CE complaints), so the entirety of the agency's complaint caseload consists of substantive complaints which typically take much longer to investigate. The agency has recently hired a new staff attorney to assist with the investigation and resolution of complaints. However, there is a training curve to learn the laws, rules and processes of the enforcement division.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The agency enforcement staff have begun investigating the more substantial complaints created during FY 2018. These substantial complaints typically take longer to investigate and resolve, thus the reason for the average of 331 days to resolve a complaint during this quarter. However, this is less than the average complaint resolution time of 389 days and 356 days that it took during the first and second quarters, respectively. The agency anticipates that it will continue to exceed this measure during this fiscal year.

* Varies by 5% or more from target.

Board of Examiners of Psychologists
Monthly Operating Budget
As of July 31, 2020

	<u>Licensing</u>	<u>Enforcement</u>	<u>Texas Online</u>	<u>TOTALS</u>
<u>Revenues</u>				
Original Appropriations	498072.00	361896.00	37000.00	896968.00
Excess Collected Revenue Posted	22250.00	12750.00	5280.00	40280.00
Appropriation Transfers In (BRP)	1800.00	452.00		2252.00
Appropriation Transfers Out (HPC)	-28217.00	-18811.00		-47028.00
Appropriation Transfers In (Lump Sum)	0.00	0.00		0.00
eStrategy Deposits	22746.00			22746.00
IAC with BHEC	2400.00			2400.00
Total Available Revenues	519051.00	356287.00	42280.00	917618.00
<u>Expenditures</u>				
Salaries and Wages	372352.72	258590.76		630943.48
Other Personnel Costs	18986.90	7164.63		26151.53
Professional Fees and Services	0.00	100.00		100.00
Consumable Supplies	2464.01	1635.77		4099.78
Utilities	957.19	757.41		1714.60
Travel	8870.05	5913.06		14783.11
Rent - Space/Building	135.36	90.21		225.57
Rent - Machine and Other	1934.78	1289.80		3224.58
Other Operating Expenses	37186.71	23407.22	38524.00	99117.93
BRP	1506.07	376.49		1882.56
Total Expenditures	444393.79	299325.35	38524.00	782243.14
Excess/ Shortage	<u>74657.21</u>	<u>56961.65</u>	<u>3756.00</u>	<u>135374.86</u>
Percent of Budget Spent	86%	84%	91%	85%
Percent of Budget Remaining	14%	16%	9%	15%
Percent of Year Remaining	9%			

Board of Examiners of Psychologists
Operating Budget
As of July 31, 2020

Program	Licensing	Enforcement	TexasOnline	Totals
Appropriations - GR	498,072	361,896	37,000	896,968
Excess Collected Revenue	22,250	12,750	5,280	40,280
Appropriation Transfers Out (HPC)	-28,217	-18,811		-47,028
Appropriation Transfers In (BRP)	1,800	452		2,252
Appropriation Transfers In (Lump Sum)	0	0		0
eStrategy Deposits	22,746			22,746
IAC with BHEC	2,400			2,400
Total Receipts	519,051	356,287	42,280	917,618
Expenditures				
7001 Exempt Salaries	30,221	20,147		-50,369
7002 Sal-Full Time Class	330,303	210,606		-540,909
7003 Sal-Part Time Class		19,952		-19,952
7007 Sal-Part Time Hourly	11,828	7,885		-19,713
7017 1X Merit	5,000			-5,000
7021 Overtime Pay				0
7022 Longevity	9,564	4,216		-13,780
7023 Lump Sum Termination				0
7025 Salary-Per Diem Allow				0
7033 Employee Retirement Cont.	4,423	2,949		
7040 Additional Payroll Ret. Cont.	1,862	1,293		
7042 Payroll Health Insurance 1%	3,066	1,948		
7050 Benefit Repl Pay	1,506	376		-1,883
7101 Travel-In St-Pub Trans	981	654		-1,635
7102 Travel-In State Mileage	2,611	1,741		-4,352
7104 Travel-In State Actual	12	8		-19
7105 Travel-In State Incident	499	333		-832
7106 Travel-In State Meals	134	90		-224
7107 Travel-In State Non-Overnight				0
7108 Travel-In State Meals				0
7110 Bd Member Meals	3,473	2,315		-5,789
7111 Travel Out of St-Trans	306	204		-510
7112 Travel Out of St-Mileage	11	7		-18
7114 Travel Out of St Actual	738	492		-1,230
7115 Travel O of St-Incident	105	70		-175
7116 Travel O of St-Meals/Lo				0
7122 Travel In St-Single Engine Aircraft				0
7135 Travel-Hotel Occ. Tax	0	0		0
7136 Travel - Galv Hotel Tax				0
7201 Membership Fees	2,028	1,602		-3,630
7203 Reg Fees Empl Trng	1,101	3,209		-4,310
7204 Insurance Premiums	4,075	2,721		-6,796
7205 Emp Surety - Notary				0
7210 Fees/Other Chgs	2,788			-2,788
7211 Awards		1		0

7219	Fees for Rec. Electronic			38,524	-38,524
7223	Court Costs				0
7225	Judgmts & Settlements-Atty Fees				0
7226	Judgmts & Settlements-Claimant				0
7245	Financial and Accounting				
7253	Prof Serv-Other		100		-100
7254	Other Witness Fees				0
7262	Computer Maintenance				0
7266	Maint. & Rep. Bldgs.				0
7267	Pers. Prop. Repair-Comp	170	113		-283
7273	Printing Forms/Bus Cds	3,651	223		-3,875
7275	Computer Programming				0
7276	Elec Comm - Internet	415	276		-691
7281	Advertising Svcs				0
7286	Freight Delivery	86	58		-144
7291	Postal Services	12,000	8,000		-20,000
7295	Investigation Expense				0
7299	Purc. Contracted Svc	476	317		-793
7300	Consumables	2,464	1,636		-4,100
7303	Subsc. Periodicals	75	50		-125
7334	Furn & Equip-expensed	706	471		-1,177
7335	Computer Parts				0
7367	Pers Prop - Maint/Rep				0
7374	Equip. Non-Cap				0
7377	Pers. Prop. Comp Equip	628	419		-1,047
7378	Pers. Prop. Comp-Cap				0
7380	Comp SW-5000 or less	20	14		-34
7382	Personal Property - Books	18	12		-30
7406	Rental - Equipment	1,935	1,290		-3,225
7442	Rental of Motor Vehicles				0
7470	Rental-Storage/Space	135	90		-226
7503	LD Telecomm		119		-119
7504	Telecomm-Mo Chgs				0
7510	Telcom Parts/ Supplies				0
7516	Telecommunications - Other	957	638		
7806	Interest on Late Pmts				0
7947	SORM Pmt	501	334		-834
7961	Telecomm-Cap Compl	1,718	1,145		-2,864
7962	Cap. Cplx. Transfers	1,802	1,202		-3,004
7984	Unemployment				0
Total Expense		444,394	299,325	38,524	782,243
Cash Available		74,657	56,962	3,756	135,375

Percent of Budget Spent	86%	84%	91%	85%
Percent of Budget Remaining	14%	16%	9%	15%

Percent of FY 2020 Remaining

9% 2

§463.30.Examinations Required for Licensure.

(a) Jurisprudence Examination. All applicants for licensure are required to pass the Jurisprudence Examination prior to the Council granting a license.

(b) School Psychology Examination. Applicants for licensure as a specialist in school psychology must take the School Psychology Examination administered by the Educational Testing Service before applying for licensure as a specialist in school psychology.

(c) Examination for Professional Practice in Psychology (EPPP). All applicants for licensure as a psychological associate or psychologist are required to pass the EPPP, Part I and Part II, prior to the Council granting a license. An applicant who has taken the EPPP, Part I or Part II, either in the past or in another jurisdiction will not be required to retake that part of the exam provided the applicant's score satisfies the Council's current minimum acceptable score for licensure.

§463.31.Minimum Passing Scores for Examinations.

(a) Cutoff Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology, Part I, is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test. The minimum acceptable score for the Examination for Professional Practice in Psychology, Part II, is 500.

(b) Cutoff Scores for the School Psychology Examination. The minimum acceptable score for the School Psychology Examination is the same as the current cut-off score for the Nationally Certified School Psychologist credential.

(c) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is ninety percent (90%).

Commented [DS1]: I am assuming the Board will want to adopt the cutoff score adopted by ASPPB, but I recommend actually stating that score in the rule vs. adopting it by reference.

At the time I am writing this comment, I do not know what ASPPB has adopted as the cutoff score.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

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

463.2. Reciprocity Agreements with Other Jurisdictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

463.8. Licensed Psychological Associate.

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

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

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

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

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

(A) Psychological Foundations:

(i) the biological bases of behavior;

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

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

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

(B) Research and Statistics:

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

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

(C) Applied Psychology:

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

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

(D) Assessment:

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

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

(E) Interventions:

(i) the application of therapeutic techniques;

(ii) behavior management;

(iii) consultation; and

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

(b) Degree Requirements.

(1) For purposes of this rule:

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

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

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

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

(3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the Council

with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

(1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.

(2) Notwithstanding paragraph (1) of this subsection and subject to the limitations set out in paragraph (3) of this subsection, a licensed psychological associate may practice independently if:

(A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;

(B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and

(C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.

(3) A licensed psychological associate meeting the requirements of paragraph (2) of this subsection shall be approved for independent practice, but remains subject to all Council rules, including Council §465.9 relating to competency.

(4) Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.

(5) Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.

(d) Notwithstanding subsection (c)(3) of this section, an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Council rule §463.11 shall govern any request for a waiver under this rule.

(e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."

(f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Council describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Council's website.

(g) Continuation of Prior Law.

(1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.

(2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has

completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.

463.9. Licensed Specialist in School Psychology.

(a) License Requirements. An applicant for licensure as a specialist in school psychology must:

- (1) hold an appropriate graduate degree;
- (2) provide proof of specific graduate level coursework
- (3) provide proof of an acceptable internship;
- (4) provide proof of passage of all examinations required by the Council; and
- (5) meet the requirements imposed under §501.2525(a)(3) - (9) of the Occupations Code.

(b) Applicants who hold active certification as a Nationally Certified School Psychologist (NCSP) are considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must provide the Council with their NCSP certification number.

(c) Applicants who graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association are considered to have met all training and internship requirements for licensure under this rule. Applicants relying upon this subsection must submit an official transcript indicating the degree and date the degree was awarded or conferred.

(d) Applicants who do not hold active NCSP certification, or who did not graduate from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited institution of higher education. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited institution of higher education. A maximum of 12 internship hours may be counted toward this requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology.

(e) Applicants applying under subsection (d) of this section must submit evidence of graduate level coursework as follows:

(A) Psychological Foundations, including:

- (i) biological bases of behavior;
- (ii) human learning;
- (iii) social bases of behavior;
- (iv) multi-cultural bases of behavior;
- (v) child or adolescent development;
- (vi) psychopathology or exceptionalities;

(B) Research and Statistics;

(C) Educational Foundations, including any of the following:

- (i) instructional design;
- (ii) organization and operation of schools;
- (iii) classroom management; or

(iv) educational administration;

(D) Assessment, including:

(i) psychoeducational assessment;

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

(E) Interventions, including:

(i) counseling;

(ii) behavior management;

(iii) consultation;

(F) Professional, Legal and Ethical Issues; and

(G) A Practicum.

(f) Applicants applying under subsection (d) must have completed an internship with a minimum of 1200 hours and that meets the following criteria:

(1) At least 600 of the internship hours must have been completed in a public school.

(2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Council rule §463.11(d)(1) and (d)(2)(C) of this section.

(3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.

(4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.

(5) Unless authorized by the Council, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.

(7) Internship hours must be obtained in not less than one or more than two academic years.

(8) An individual completing an internship under this rule must be designated as an intern.

(9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.

(10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.

(g) Trainee Status.

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

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

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

(4) A trainee's status may be suspended or revoked upon a showing of a violation of the Council's rules or any law pertaining to the practice of psychology, and the individual may be

made the subject of an eligibility proceeding. The one-year period for trainee status shall not be tolled by any suspension of the trainee status.

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

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

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

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

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

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

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

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

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

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

463.10. Licensed Psychologists.

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

(1) hold a doctoral degree in psychology from a college or university accredited by a regional accrediting organization;

(2) pass all examinations required by the agency;

(3) submit documentation of supervised experience from a licensed psychologist which satisfies the requirements of Council rule 463.11; and

(4) meet all other requirements of §501.2525 of the Occupations Code.

(b) Degree Requirements.

(1) For those applicants with a doctoral degree conferred on or after January 1, 1979, the transcript must state that the applicant has a doctoral degree that designates a major in psychology.

(2) For those applicants with a doctoral degree conferred prior to January 1, 1979, the transcript must reflect a doctoral degree that designates a major in psychology or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training. A doctoral degree will be considered the substantial equivalent to a doctoral degree in psychology if the training program meets the following criteria:

(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.

(B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

(C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.

(D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.

(E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.

(F) The program must have an identifiable body of students who matriculated in the program.

(G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.

(H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(I) The following curricular requirements must be met and demonstrated through appropriate course work:

(i) Scientific and professional ethics related to the field of psychology.

(ii) Research design and methodology, statistics.

(iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Council evidence of competency in each of the four core areas.

(I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.

(II) Cognitive-affective basis of behavior: learning, thinking, motivation, emotion.

(III) Social basis of behavior:

social psychology, group processes, organizational and system theory.

(IV) Individual differences: personality theory, human development, abnormal psychology.

(J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.

(3) Any person intending to apply for licensure under the substantial equivalence clause must file with the Council an affidavit showing:

(A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;

(B) Information regarding each of the instructors in the courses submitted as substantially equivalent;

(C) Appropriate, published information from the university awarding the degree, demonstrating that in requirements noted in paragraph (2) of this subsection have been met.

(c) An applicant who holds an active Certificate of Professional Qualification in Psychology (CPQ) is considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their certification be sent directly to the Council from the Association of State and Provincial Psychology Boards (ASPPB), be submitted to the Council in the sealed envelope in which it was received by the applicant from ASPPB, or be submitted to the Council as directed by agency staff.

(d) An applicant who holds an active specialist certification with the American Board of Professional Psychology (ABPP) is considered to have met all requirements for licensure under this rule except for passage of the EPPP and Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their specialist certification be sent directly to the Council from ABPP, be submitted to the Council in the sealed envelope in which it was received by the applicant from ABPP, or be submitted to the Council as directed by agency staff.

(e) The requirement for documentation of supervised experience under this rule is waived for an applicant who is actively licensed as a doctoral-level psychologist in good standing and has been practicing psychology in another jurisdiction for at least five years or can affirm that the applicant has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred. Applicants relying upon this subsection must request that verification of their out-of-state licensure be sent directly to the Council from the other jurisdiction, be submitted to the Council in the sealed envelope in which it was received by the applicant from the other jurisdiction, or be submitted to the Council as directed by agency staff.

(f) Provisional License.

(1) An applicant who has not yet passed the required examinations or is seeking to acquire the supervised experience required under Council rule 463.11 may practice under the supervision of a licensed psychologist as a provisionally licensed psychologist for not more than two years if the applicant meets all other licensing requirements.

(2) A provisional license will be issued to an applicant upon proof of provisional license eligibility. However, a provisional license will not be issued to an applicant who was issued a provisional license in connection with a prior application.

- (3) A provisionally licensed psychologist is subject to all applicable laws governing the practice of psychology.
- (4) A provisionally licensed psychologist may be made the subject of an eligibility or disciplinary proceeding. The two-year period for provisional licensure shall not be tolled by any suspension of the provisional license.
- (5) A provisional license will expire after two years if the person does not qualify for licensure as a psychologist.

463.11. Supervised Experience Required for Licensure as a Psychologist.

(a) Required Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program and at least 1,750 of which must have been received as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).

(1) A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant whose doctoral degree was conferred prior to September 1, 2017.

(2) The formal internship must be documented by the Director of Internship Training. Alternatively, if the Director of Internship Training is unavailable, the formal internship may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program.

(3) Following conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting, while licensed or authorized to practice in another jurisdiction, or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained without a provisional license or trainee status prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this rule if the experience was obtained under the supervision of a licensed psychologist.

(b) Satisfaction of Post-doctoral Supervised Experience with Doctoral Program Hours.

(1) Applicants who received their doctoral degree from a degree program accredited by the American Psychological Association (APA), the Canadian Psychological Association (CPA), or a substantially equivalent degree program, may count the following hours of supervised experience completed as part of their degree program toward the required post-doctoral supervised experience:

(A) hours in excess of 1,750 completed as part of the applicant's formal internship; and

(B) practicum hours certified by the doctoral program training director (or the director's designee) as meeting the following criteria:

(i) the practicum training is overseen by the graduate training program and is an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and ultimately licensure;

(ii) the practicum training is governed by a written training plan between the student, the practicum training site, and the graduate training program. The training plan must describe how

the trainee's time is allotted and assure the quality, breadth, and depth of the training experience through specification of the goals and objectives of the practicum, the methods of evaluation of the trainee's performance, and reference to jurisdictional regulations governing the supervisory experience. The plan must also include the nature of supervision, the identities of the supervisors, and the form and frequency of feedback from the agency supervisor to the training faculty. A copy of the plan must be provided to the Council upon request;

(iii) the supervising psychologist must be a member of the staff at the site where the practicum experience takes place;

(iv) at least 50% of the practicum hours must be in service-related activities, defined as treatment or intervention, assessment, interviews, report-writing, case presentations, and consultations.

(v) individual face-to-face supervision shall consist of no less than 25% of the time spent in service-related activities;

(vi) at least 25% of the practicum hours must be devoted to face-to-face patient or client contact;

(vii) no more than 25% of the time spent in supervision may be provided by a licensed allied mental health professional or a psychology intern or post-doctoral fellow; and

(viii) the practicum must consist of a minimum of 15 hours of experience per week.

(2) Applicants applying for licensure under the substantial equivalence clause must submit an affidavit or unsworn declaration from the program's training director or other designated leader familiar with the degree program, demonstrating the substantial equivalence of the applicant's degree program to an APA or CPA accredited program at the time of the conferral of applicant's degree.

(3) An applicant and the affiant or declarant shall appear before the agency in person to answer any questions, produce supporting documentation, or address any concerns raised by the application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of substantial equivalency under this rule.

(c) General Requirements for Supervised Experience. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:

(1) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.

(2) Gaps Related to Supervised Experience.

(A) Unless a waiver is granted by the Council, an application for a psychologist's license will be denied if a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date of the application.

(B) The Council shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:

(i) proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act, during any gap period;

(ii) proof of professional development, which at a minimum meets the Council's professional development requirements, during any gap period;

(iii) proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or

(iv) proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.

(3) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.

(4) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.

(5) All supervised experience must be received from a psychologist licensed at the time supervision is received.

(6) The supervising psychologist must be trained in the area of supervision provided to the supervisee.

(7) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.

(8) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Council rules.

(9) Unless authorized by the Council, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(10) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use that title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use that title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Council rule.

(d) Formal Internship Requirements. The formal internship hours must be satisfied by one of the following types of formal internships:

(1) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(2) The successful completion of an organized internship meeting all of the following criteria:

(A) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.

(B) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.

- (C) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.
- (D) Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.
- (E) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.
- (F) At least 25% of trainee's time must be in direct patient/client contact.
- (G) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.
- (H) Training must be post-clerkship, post-practicum and post-externship level.
- (I) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.
- (J) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or
- (3) The successful completion of an organized internship program in a school district meeting the following criteria:
 - (A) The internship experience must be provided at or near the end of the formal training period.
 - (B) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.
 - (C) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.
 - (D) The internship experience must occur in a setting appropriate to the specific training objectives of the program.
 - (E) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.
 - (F) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
 - (G) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
 - (H) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.
 - (I) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.

- (J) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
- (K) The internship experience must be conducted in a manner consistent with the current legal-ethical standards of the profession.
- (L) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.
- (M) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.
- (e) Industrial/Organizational Requirements. Individuals from an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have taken place after conferral of the doctoral degree and in accordance with subsection (a) of this rule. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Council rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.
- (f) Licensure Following Respecialization.
- (1) In order to qualify for licensure after undergoing respecialization, an applicant must demonstrate the following:
- (A) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing respecialization;
- (B) completion of a formal post-doctoral respecialization program in psychology which included at least 1,750 hours in a formal internship;
- (C) completion of respecialization within the two year period preceding the date of application for licensure under this rule; and
- (D) upon completion of the respecialization program, at least 1,750 hours of supervised experience obtained as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).
- (2) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.
- (3) The rules governing the waiver of gaps related to supervised experience shall also govern any request for waiver of a gap following respecialization.

463.12. Temporary License.

- (a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose. To be eligible for temporary licensure, an applicant must:
- (1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;
- (2) pay the application fee;
- (3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;

- (4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;
- (5) be supervised (sponsorship) by a psychologist licensed in this state; and
- (6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.
- (b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Council. An applicant need not demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Council has reciprocity.
- (c) Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Council as compliance with and in lieu of subsection (a)(3) and (6) of this section.
- (d) For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.
- (e) Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.
- (f) A temporary licensee must submit written notification to the Council of the dates licensee intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Council.
- (g) Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Council rules.
- (h) An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Council.
- (i) A temporary license holder may not receive another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.

463.13. Licensure by Reciprocity. An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:

- (1) Submit an application in the form prescribed by the Council and corresponding fee;
- (2) Submit verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity;

- (3) Pass the jurisprudence examination; and
- (4) Submit any other documentation or information requested in the application or which the Council may deem necessary in order to ensure the public's safety when processing the application.

463.14. Remedy for Incomplete License Requirements

- (a) An applicant who does not meet all of the prerequisites for a particular license under Chapter 501, may petition the Council for a waiver or modification of the prerequisite(s). An applicant may not petition for the waiver or modification of the degree required for the particular license sought or passage of the requisite examinations.
- (b) The Council may waive or modify a prerequisite for obtaining a license under Chapter 501, subject to subsection (a) of this section, if:
 - (1) the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and
 - (2) the failure or inability to meet the prerequisite was due to a disaster declared under Chapter 418 of the Government Code or under similar authority in another jurisdiction.
- (c) The Council may approve or deny a petition under this rule, and in the case of approval, may condition the approval on reasonable terms and conditions designed to ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought.

The Texas Behavioral Health Executive Council proposes new rule §463.20, relating to Applications and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

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

(a) Substantial Equivalency Determination. In accordance with §55.004 of the Occupations Code, the licensing requirements for a license to practice psychology in another jurisdiction will be considered substantially equivalent to Texas' requirements if the other jurisdiction's requirements meet or exceed the following criteria:

(1) Licensed Specialist in School Psychology.

(A) The completion of a training program in school psychology that has been approved or accredited by the American Psychological Association or the National Association of School Psychologists, or completion of a master's degree in psychology with specific course work similar to the coursework required in the Council's rules; and

(B) Passage of the School Psychology Examination.

(2) Licensed Psychological Associate.

(A) A graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;

(B) Passage of the EPPP at the Texas cut-off score; and

(C) A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.

(3) Licensed Psychologist.

(A) A doctoral degree in psychology;

(B) Passage of the EPPP at the Texas cut-off score; and

(C) A minimum of two years or 3,000 hours of supervised experience under a licensed psychologist.

(b) In accordance with §55.007 of the Occupations Code, an applicant who is a military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:

(1) Licensed Specialist in School Psychology. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: a practicum and 600 internship hours.

(2) Licensed Psychological Associate. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: 6 semester credit hours of supervised experience.

(3) Licensed Psychologist. A military service member or military veteran who has delivered psychological services within the military for at least one year, following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or 1,750 hours of supervised experience.

(c) A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another jurisdiction that has been restricted, or they have an unacceptable criminal history.

The Texas Behavioral Health Executive Council proposes new rule §463.25, relating to Applications and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

463.25. Health Service Psychologist Specialty Certification.

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

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

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

The Texas Behavioral Health Executive Council proposes new rules §463.30-463.31, relating to Applications and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

463.30. Examinations Required for Licensure.

- (a) Jurisprudence Examination. All applicants for licensure are required to pass the Jurisprudence Examination prior to the Council granting a license.
- (b) School Psychology Examination. Applicants for licensure as a specialist in school psychology must take the School Psychology Examination administered by the Educational Testing Service before applying for licensure as a specialist in school psychology.
- (c) Examination for Professional Practice in Psychology (EPPP). All applicants for licensure as a psychological associate or psychologist are required to pass the EPPP prior to the Council granting a license. An applicant who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided the applicant's score satisfies the Council's current minimum acceptable score for licensure.

463.31. Minimum Passing Scores for Examinations.

- (a) Cutoff Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test.
- (b) Cutoff Scores for the School Psychology Examination. The minimum acceptable score for the School Psychology Examination is the same as the current cut-off score for the Nationally Certified School Psychologist credential.
- (c) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is ninety percent (90%).

The Texas Behavioral Health Executive Council proposes new rule §463.35, relating to Applications and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

463.35. Professional Development.

(a) Persons licensed under Chapter 501 are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period they hold a license. At least 6 of these hours must be in ethics, the Council's rules, or professional responsibility, and another 6 or more hours must be in cultural diversity.

Acceptable cultural diversity hours include, but are not limited to professional development regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status.

(b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Council will make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Council may require a licensee to produce course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. A person may not claim professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.

(c) At least half of the professional development hours required by this rule must be obtained from or endorsed by a provider listed in subsection (f)(1) of this section.

(d) The Council will not pre-approve professional development credit.

(e) Approved Professional Development Activities. The Council will accept professional development hours obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit in more than one renewal period:

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

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

(3) presentation of a program or workshop; and

(4) authoring or editing publications.

(f) Approved Professional Development Providers. The Council will accept professional development hours from the following providers:

(1) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; and

(2) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.

(g) Credit for professional development will be provided as follows:

(1) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.

(2) For teaching or attendance of a graduate level psychology course, 4 hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.

(3) For presentations of workshops or programs, 3 hours for each hour actually presented, for a maximum of 6 hours per year.

(4) For publications, 8 hours for authoring or co-authoring a book; 6 hours for editing a book; 4 hours for authoring a published article or book chapter. A maximum credit of 8 hours for publication is permitted for any one year.

(h) Professional development hours must have been obtained during the renewal period for which they are submitted and may not be utilized to fulfill the requirements for more than one renewal period. However, if the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements.

(i) The Council will accept as documentation of professional development:

(1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;

(2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;

(3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;

(4) for presenters of professional development workshops or programs, copies of the official program announcement naming the licensee as a presenter and an outline or syllabus of the contents of the program or workshop;

(5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;

(6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.

(j) It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Council. Licensees shall maintain documentation of all professional development hours for 5 years following the renewal period in which those hours were utilized.

The Texas Behavioral Health Executive Council proposes new rule §463.40, relating to Applications and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

463.40. Ineligibility Due to Criminal History. Those crimes which TSBEP considers directly related to the duties and responsibilities of a licensee are:

- (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
- (2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (3) any criminal violation of the Psychologists' Licensing Act;
- (4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
- (5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;
- (6) any criminal violation of §32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), §32.45 (Misapplication of Fiduciary Property), §32.46 (Securing Execution of Document by Deception), §32.50 (Deceptive Preparation and Marketing of Academic Product), §32.51 (Fraudulent Use or Possession of Identifying Information), §32.52 (Fraudulent, Substandard, or Fictitious Degree), or §32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;
- (7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;
- (8) any offense involving the failure to report abuse;
- (9) any criminal violation of §38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;
- (10) any criminal violation involving a federal health care program, including 42 USC §1320a-7b (Criminal penalties for acts involving Federal health care programs);
- (11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and
- (12) any attempt, solicitation, or conspiracy to commit an offense listed herein.

The Texas Behavioral Health Executive Council proposes new rules §§465.1-465.38, relating to Rules of Practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

465.1. Definitions. The following terms have the following meanings:

- (1) "Adoption evaluation" has the same meaning as assigned by §107.151 of the Family Code.
- (2) "Child custody evaluation" has the same meaning as assigned by §107.101 of the Family Code.
- (3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.
- (4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.
- (5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.
- (6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, oral or written reports, live or recorded testimony, or any psychological service provided by a licensee concerning a current or potential legal case at the request of a party or potential party, an attorney for a party, or a court, or any other individual or entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).
- (7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.
- (8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants, and any other individual subject to the regulatory authority of the Council.
- (9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.
- (10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.
- (11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of

the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.

(12) "Professional standards" are determined by the Council through its rules.

(13) "Provision of psychological services" means any use by a licensee of education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, or performing research, or teaching to an individual, group, or organization.

(14) "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.

(15) "Recognized member of the clergy," as used in §501.004(a)(4) of the Occupations Code, means a member in good standing of and accountable to a denomination, church, sect or religious organization recognized under the Internal Revenue Code, §501(c)(3).

(16) "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.

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

(18) "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.

(19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.

(20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

465.2. Supervision.

(a) Supervision in General. The following rules apply to all supervisory relationships.

(1) A licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.

(2) Licensees ensure that their supervisees have legal authority to provide psychological services.

(3) Licensees delegate only those responsibilities that supervisees may legally and competently perform.

- (4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.
- (5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:
- (A) Supervised by (name of supervising licensee);
- (B) Under the supervision of (name of supervising licensee);
- (C) The following persons are under the supervision of (name of supervising licensee); or
- (D) Supervisee of (name of supervising licensee).
- (6) Licensees provide an adequate level of supervision to all individuals under their supervision according to accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.
- (7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include synchronous remote or electronic means.
- (8) Licensees must be competent to perform any psychological services being provided under their supervision.
- (9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.
- (10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.
- (b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.
- (1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.
- (2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.
- (3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.
- (4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.
- (5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure under Chapter 501, to supervise others in the delivery of psychological services.
- (6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours

to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

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

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

465.4. Employment of Unlicensed Individuals.

(a) Individuals Licensed in Another Profession. Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a person licensed under Chapter 501 may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.

(b) Unlicensed Individuals. Psychologists may employ unlicensed individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:

(1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;

(2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and

(3) Technical, educational, or other duties that are adjunctive to and incorporated into the provision of psychological services such as providing educational information or assisting a client's work with a computer, special equipment or special materials, provided that the duties do not require psychological education or involve the provision of psychological services or the services or activities of another licensed profession.

465.5. Multiple Licensure. Multiple licenses regulated by the Council are treated as one for purposes of discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all psychology licenses held by a licensee.

465.6. Solicitation, Use of Titles, and Business Names.

(a) Solicitation of Testimonials and/or Patients.

(1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.

(2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.

(b) Use of Titles.

(1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.

(2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.

(3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:

(A) the individual holds a doctorate in the area of specialization;

(B) the individual has undergone retraining under the American Psychological Association retraining guidelines in effect at the time of specialization;

(C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;

(D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and relevant applied experience, as well as proof that the title has been used for at least five years; or

(E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.

(c) Assumed Names and Legal Entities. Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.

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

465.9. Competency.

(a) Licensees provide only services for which they have the education, skills, and training to perform competently.

(b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.

(c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.

(d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.

- (e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.
- (f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.
- (g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.
- (h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to an appropriate service provider.
- (i) Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services until the emergency has abated or to the extent necessary to ensure that services are not denied. If ongoing services are provided, licensees must comply with subsection (d) of this section, as soon as practicable or refer the patient to an appropriate service provider.
- (j) Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with §465.21 of this title (relating to Termination of Services).

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

465.11. Informed Consent.

- (a) Except in an inpatient setting where a general consent has been signed, licensees must obtain and document in writing informed consent concerning all services they intend to provide to the patient, client or other recipient(s) of the psychological services prior to initiating the services, using language that is reasonably understandable to the recipients unless consent is precluded by applicable federal or state law.
- (b) Licensees provide appropriate information as needed during the course of the services about changes in the nature of the services to the patient client or other recipient(s) of the services using language that is reasonably understandable to the recipient to ensure informed consent.
- (c) Licensees provide appropriate information as needed, during the course of the services to the patient client and other recipient(s) and afterward if requested, to explain the results and conclusions reached concerning the services using language that is reasonably understandable to the recipient(s).
- (d) When a licensee agrees to provide services to a person, group or organization at the request of a third party, the licensee clarifies to all of the parties the nature of the relationship between the licensee and each party at the outset of the service and at any time during the services that the circumstances change. This clarification includes the role of the licensee with

each party, the probable uses of the services and the results of the services, and all potential limits to the confidentiality between the recipient(s) of the services and the licensee.

(e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality, expectations of each participant, and the access of each participant to records generated in the course of the services.

(f) At any time that a licensee knows or should know that the licensee may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Council rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in rule §465.9(j) of this title (relating to Competency) that will prevent them from performing their work-related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and referral to insure that the services are completed in a timely manner.

(g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.

(h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that the licensee intends to provide to the patient, client, or other recipient(s) of the psychological services prior to initiating the services using language that is reasonably understandable to the recipient(s).

465.12. Privacy and Confidentiality.

(a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.

(b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process.

(c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.

(d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient or client confidentiality.

(e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.

(f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity or records, must remove all identifying and confidential information relating to the second individual before releasing the records.

(g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licensees shall exclude information that could lead to the identification of the patient or client.

(h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.

(i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

465.13. Personal Problems, Conflicts and Dual Relationships

(a) In General.

(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.

(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.

(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.

(4) Licensees refrain from entering into or withdraw from any professional relationship that conflicts with their ability to comply with all Council rules applicable to other existing professional relationships.

(b) Dual Relationships.

(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.

(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.

(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.

(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.

(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.

465.14. Misuse of Licensee Services.

(a) Licensees decline to offer services when limitations or conditions are placed on their work by the patient, client, or third parties which could foreseeably cause the licensee to violate a Council rule.

(b) If licensees become aware of misuse or misrepresentation of their services or the results of their services, they take reasonable steps to correct or minimize the misuse or misrepresentation.

465.15. Fees and Financial Arrangements.

(a) General Requirements.

(1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.

(2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.

(3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.

(4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.

(b) Ethical and Legal Requirements.

(1) Licensees do not engage in fraudulent billing.

(2) Licensees do not misrepresent their fees.

(3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.

(4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.

(5) A licensee does not participate in bartering if it is clinically contra- indicated or if bartering has the potential to create an exploitative or harmful dual relationship.

465.16. Evaluation, Assessment, Testing, and Reports.

(a) Scope and Purpose.

(1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.

(2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.

(b) Reliability and Validity.

(1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.

(2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.

(3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.

(4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.

(5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.

(c) Limitations.

- (1) Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.
- (2) Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.
- (3) Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.
- (4) Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.
- (5) Licensees provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.
- (6) Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.
- (d) Test Security and Validity. Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test.
- (e) Production of Reports.
 - (1) Licensees shall provide the patient, client, or subject of the evaluation with an estimate of the time needed to produce a report prior to conducting any evaluation, assessment, or testing.
 - (2) Licensees shall produce a report within a reasonable time period following completion of the evaluation, assessment, or testing needed to substantiate the report.
 - (3) Licensees shall notify a patient, client, or subject of the evaluation if a report cannot be produced within the original estimated time period and provide a new production date together with a reasonable explanation for why the report will be delayed.

465.17. Therapy and Counseling.

- (a) Imbalances of Power.
 - (1) Licensees who engage in therapy or counseling recognize the actual or perceived power or undue influence they hold over current and former patients and clients.
 - (2) Licensees are presumed to have power and influence over former therapy or counseling patients or clients.
 - (3) Licensees do not engage in sexual relationships with, employ, enter into business with or otherwise exploit any former patient or client over whom they have actual or perceived power or undue influence created through a therapeutic relationship.
- (b) Treatment plans.
 - (1) Licensees create specific written treatment plans that include, at a minimum, agreed upon goals of the treatment, the techniques to be used, and the tentative duration of the treatment for any therapy or counseling that they provide.
 - (2) Licensees explain the treatment plan to all recipients of the therapy or counseling before commencing the services.

(3) Licensees alter and document the alteration in the treatment plan when clinically indicated.

(4) Licensees confer with and obtain consent from the patient, client, or other recipient(s) of services concerning significant alterations in the treatment plan.

465.18. Forensic Services.

(a) In General.

(1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Council rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.

(2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.

(3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.

(4) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.

(5) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.

(b) Limitation on Services.

(1) A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and competency to render a professional opinion shall decline to render that opinion.

(2) A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.

(3) A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.

(4) A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.

(5) When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.

(c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:

(1) The nature of the anticipated services (procedures);

(2) The specific purpose and scope of the evaluation;

- (3) The identity of the party who requested the psychologist's services;
- (4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;
- (5) The type of information sought and the uses for information gathered;
- (6) The people or entities to whom psychological records will be distributed;
- (7) The approximate length of time required to produce any reports or written results;
- (8) Applicable limits on confidentiality and access to psychological records;
- (9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and
- (10) The licensee's name as it appears in their professional file with the Council prior to initiating services.

(d) Certain Testimony Prohibited.

- (1) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.
- (2) In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.
- (3) This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.

(e) Child Custody Evaluations.

- (1) The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.
- (2) The term "supervision" as used in this subsection shall have the meaning assigned by §107.101 of the Family Code. However, the term shall not encompass the restrictions and requirements set forth in §465.2 of this title (relating to Supervision) nor shall a licensee providing supervision under this subsection have supervisory responsibility under that same rule.
- (3) Minimum Qualifications of Child Custody Evaluator.
 - (A) A licensee must be qualified to conduct a child custody evaluation pursuant to §107.104 of the Family Code before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.
 - (B) Notwithstanding any other grounds for qualification, the Council has determined that a licensed psychologist is qualified to conduct child custody evaluations if the licensee:
 - (i) has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or
 - (ii) has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.
 - (C) A licensee who does not meet the minimum qualification requirements set forth in §107.104 of the Family Code, may nevertheless conduct a child custody evaluation if:
 - (i) appointed to do so pursuant to §107.106 of the Family Code. A licensee appointed under §107.106 must comply with the provisions of Subchapter D of the Family Code and this rule; or

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(D) If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

(E) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

(4) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in §107.107 of the Family Code.

(B) Following any disclosure required by §107.107(c), a licensee must resign as child custody evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.

(C) Except as authorized by §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(5) Elements of Child Custody Evaluation.

(A) Licensees shall comply with §§107.108, 107.109, and 107.1101 of the Family Code when conducting child custody evaluations.

(B) Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with §107.110 of the Family Code.

(6) Communications and Recordkeeping of Child Custody Evaluator.

(A) Licensees shall comply with the requirements of §107.112 of the Family Code regarding:

(i) the disclosure of communications between evaluation participants;

(ii) the creation and retention of records relevant to the evaluation; and

(iii) access to evaluation records.

(B) Licensees conducting child custody evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.111 of the Family Code, as well as any records obtained pursuant to §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.

(7) Evaluation Report.

(A) A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with §107.113 of the Family Code.

(B) A licensee shall provide a copy of any report filed with the Court in accordance with §107.114 of the Family Code.

(f) Adoption Evaluations.

(1) The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective.

Licensees conducting adoption evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.

(2) Minimum Qualifications of Adoption Evaluator.

(A) A licensee must be qualified to conduct an adoption evaluation pursuant to §107.154 of the Family Code before the licensee may conduct an evaluation.

(B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.

(C) A licensee who does not meet the minimum qualification requirements set forth in §107.154, may nevertheless conduct an adoption evaluation if:

(i) appointed to do so pursuant to §107.155 of the Family Code. A licensee appointed under §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(3) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in §107.156 of the Family Code.

(B) Following any disclosure required by §107.156(c), a licensee must resign as adoption evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator.

(C) Except as authorized by §107.156(e) of the Family Code, licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(4) A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.

(5) Licensees shall comply with §§107.158, 107.159, and 107.160 of the Family Code when conducting adoption evaluations.

(6) Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.163 of the Family Code. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by §107.163 of the Family Code will result in disciplinary action against a licensee.

(g) Duty to Report Complaints. Licensees must report any complaint filed against them that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Council. Only those complaints for which a licensee receives notice from the Council need to be reported.

(h) Parenting Facilitators.

(1) The title "parenting facilitator" is defined in §153.601 of the Family Code.

(2) The Council's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Council rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators.

(3) A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all applicable Council rules.

(4) Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.

(5) Parenting facilitators must comply with §§153.6061 and 153.6101 of the Family Code as to duties and qualifications, and with the "Guidelines for Parenting Coordination" published by the Association of Family and Conciliation Courts.

(6) The following psychologist-parenting facilitator practice standards are set forth consistent with §153.6101 of the Family Code:

(A) Parenting facilitators licensed by the Council shall comply with the standard of care applicable to the license to practice psychology in Texas.

(B) Psychologist-parenting facilitators meet all requirements of §153.6101 of the Family Code, including active licensure to practice as a psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

465.20. Research.

(a) Conducting Research.

(1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.

(2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.

(b) Research results.

(1) Psychologists do not fabricate data or falsify results in their publications.

(2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.

(3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.

(4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.

465.21. Termination of Services.

- (a) Licensees do not abandon patients or clients.
- (b) Withdrawal from a professional relationship in compliance with Council rules to avoid a prohibited dual relationship is not abandonment of a patient or client.
- (c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.
- (d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.
- (e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.
- (f) Termination of employment with agencies or organizations.
 - (1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.
 - (2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Council rules and applicable law.
 - (3) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.
- (g) Termination of employment with public schools.
 - (1) A LSSP who is under contract as an employee of a public school to provide school psychological services must deliver to such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.
 - (2) A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.

465.22. Psychological Records, Test Data and Test Materials.

- (a) General Requirements.
 - (1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.
 - (2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the

death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.

(3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.

(4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.

(5) Records shall be maintained and stored in a way that permits review and duplication.

(6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.

(7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.

(b) Maintenance and Control of Records.

(1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.

(2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.

(3) Licensees shall make all reasonable efforts to protect against the misuse of any record.

(4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.

(5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.

(6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.

(c) Access to Records.

(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.

(2) Records may be maintained in any media that ensure confidentiality and durability.

(3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.

(4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.

(5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.

(6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Council rule and state and federal law.

(7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Council rules and state and federal law.

(8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.

(9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:

(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or

(B) inform the patient in writing that the information does not exist or cannot be found; or

(C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.

(10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45 C.F.R. §164.501, maintained by the licensee concerning the patient.

(d) Retention of Records.

(1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.

(2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after the date of termination of services with the patient, client, or subject of evaluation, or five years after a patient or subject of evaluation reaches the age of majority, whichever is greater.

(3) All records shall be maintained in a manner which permits timely retrieval and production.

(e) Outdated Records.

(1) Licensees take reasonable steps when disclosing records to note information that is outdated.

(2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Council rules and state and federal laws.

465.32. Disposition and Assumption of the Practice of a Mental Health Professional.

(a) In General.

(1) A licensee has the right to sell or otherwise dispose of the licensee's practice to another licensed psychologist.

(2) A licensee has the right to assume the practice of a licensee.

(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.

(b) Notice and Referral of Patients and Clients.

(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the buyer unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.

(2) A licensee who assumes the practice of another mental health service provider may state a willingness to provide services to all patients or clients the licensee is competent to treat.

(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.

(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional.

465.33. Improper Sexual Conduct.

(a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.

(b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:

(1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;

(2) Making inappropriate comments about an individual's body;

(3) Making sexually demeaning comments to an individual;

(4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;

(5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;

(6) Requesting a date;

(7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or

(8) Kissing of a sexual nature.

(c) A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:

(1) Sexual intercourse;

(2) Genital contact;

(3) Oral to genital contact;

(4) Genital to anal contact;

(5) Oral to anal contact;

(6) Touching breasts or genitals;

- (7) Encouraging another to masturbate in one's presence;
- (8) Masturbation in another's presence; or
- (9) Exposure of sexual organs, breasts or buttocks.
- (d) A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:
 - (1) The length of the relationship;
 - (2) The nature of the relationship; and
 - (3) The frequency and type of interaction between the persons involved in the relationship.
- (e) A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former patients for at least two years after termination of services.
- (f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.
- (g) Licensees do not accept as patients individuals with whom they have engaged in sexual relationships.

465.34. Providing Mental Health Services to Those Served by Others. Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensees shall consult with the other service providers after appropriate consent has been obtained.

465.35. Duty to Report Rule Violations.

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

465.38. Psychological Services for Schools.

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

(b) Scope of Practice.

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

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

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

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

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

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

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

(A) LSSPs;

(B) Those individuals listed in §463.11; and

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

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

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider

prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) section.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

(1) Texas Education Code;

(2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;

(3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;

(4) Texas Public Information Act, Texas Government Code, Chapter 552;

(5) Section 504 of the Rehabilitation Act of 1973;

(6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and

(7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Council rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) of this section, or in a private school however, must obtain informed consent as otherwise required by the Council rules.

The Texas Behavioral Health Executive Council proposes new rule §470.1, relating to schedule of sanctions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<rule>

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

Figure: 22 TAC §470.01

Figure: 22 TAC §470.1

<u>Board Rule</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
465.2				X	
465.4				X	
465.6(a) & (b)				X	
465.6(c)					X
465.8			X		
465.9(a), (d), (e), & (f)			X		
465.9(b)-(c) & (g)-(j)				X	
465.10			X		
465.11				X	
465.12(a) & (d)-(i)			X		
465.12(b) & (c)				X	
465.13(a)(1)-(2) & (b)(4)		X			
465.13(a)(4) & (b)(1)-(3)			X		
465.13(a)(3) & (b)(5)	X				
465.14				X	
465.15(a) & (b)(2)-(5)				X	
465.15(b)(1)	X				
465.16(a)				X	
465.16(b)-(e)			X		
465.17(a)(1)-(2)			X		
465.17(a)(3)	X				
465.17(b)				X	
465.18(a)-(c) & (e)-(h)			X		
465.18(d)				X	
465.20				X	
465.21			X		
465.22(a)(1)-(6) & (b)-(e)				X	
465.22(a)(7)		X			
465.32					X
465.33(e) as it relates to sexual harassment and sexual impropriety			X		
465.33(e) as it relates to a sexual relationships and (g)	X				
465.33(f)		X			
465.34				X	
465.35(a) & (b)				X	
465.38				X	



Texas State Board of Examiners of Psychologists (TSBEP),

The Texas Psychological Association (TPA) represents the voices of over 4,500 psychologists in this state. On behalf of those psychologists, we appreciate the continued careful consideration of our comments as TSBEP members and staff implement HB 1501. Despite the breadth of this rulemaking, we are impressed with the transparency and responsiveness of TSBEP throughout this process. We have one concern with the proposed rule language.

The current rule language allows remote or electronic supervision so long as certain conditions are met. The proposed rule removes those conditions, and then adds a requirement that the remote or electronic supervision be synchronous. Specifically, within Rule §465.2, the proposed changes to subsection (a)(7) read:

(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include synchronous remote or electronic means. if:

~~(A) adequate supervision can be provided through remote or electronic means;~~

~~(B) the difficulties in providing full time in person supervision place an unreasonable burden on the delivery of psychological services; and~~

~~(C) no more than fifty percent of the supervision takes place through remote or electronic means.~~

Our first concern is that the proposed rule appears to prohibit emails and other forms of asynchronous supervision. When the Board met to discuss these rules at the May meeting, concerns about this unintended consequence were raised by Board Members. Nevertheless, an even reading of the new language would likely either confuse or mislead licensees as to the availability of asynchronous communications. Assuming this result was not intended, we hope that the Board will clarify that asynchronous remote or electronic means are still acceptable.

Our second concern is that the proposed language would allow an entire supervisory relationship to take place over audio-only phone calls. A supervisor's role is to identify and address issues that can interfere with the supervisee's ability to behave in an objective and ethical manner when the supervisee begins to practice independently. In doing so, the supervisor must draw upon cues such as body language, eye contact, and gestures to identify such concerns and bring them to the supervisee's attention. If the supervisor never sees the supervisee in person or through videoconferencing, it renders supervision much less effective.

With these concerns in mind, we recommend the following language:

(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. No more than fifty percent of the supervision may take place through remote or electronic means. Licensees may exceed fifty percent remote or electronic supervision if supervision is provided through synchronous audiovisual means.

This new language would address both of our concerns. First, it would clearly allow for the return of asynchronous means of supervision. Supervisors would be able to use asynchronous means, such as email, and synchronous





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means, such as phone calls, up to 50% of the supervisory relationship. In order to exceed that 50% cap on remote or electronic supervision, supervisors would be required to use synchronous *audiovisual* means, such as Zoom or other videoconferencing software. This would alleviate the second concern, which is that the current draft would allow an audio-only supervisory relationship.

Again, we appreciate this opportunity to comment on the proposed rules. We support the overwhelming majority of the proposals in this rulemaking, but we feel strongly that the language in Rule §465.2(a)(7) would both unintentionally prohibit asynchronous communications and create a potential for abuse by allowing an audio-only supervisory relationship. We hope TSBEP will take this opportunity to address our concerns now in an effort to avoid any damaging outcomes.

Sincerely,

Jessica Magee, Executive Director
Texas Psychological Association



Rule: 461.1. References by Board Members.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.1. References by Board Members. Current members of the Board may not provide references for an applicant for any license granted by the Board. Current Board members may document any training and/or experience an applicant received under the Board member's supervision.~~

Rule: 461.2. Unofficial Statements and/or Decisions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.2. Unofficial Statements and/or Decisions. Unofficial statements made by a Board member, a Board committee member, an advisory committee member, or staff member are not binding on the Board. No member or representative of the Board may make statements or decisions which are binding upon the Board in its deliberations upon ultimate issues presented for Board decision. Issues which ordinarily require Board decision include settlements of contested matters regarding applications, applicant qualifications and licensure, complaint resolution and/or legal matters involving modification, or Board rehearing of any prior decision rendered by the Board in performance of those statutory duties imposed by the provisions of the Psychologists' Licensing Act.~~

Rule: 461.3. Former Board Members

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.3. Former Board Members. A Board member whose term has expired and who has ceased to serve as a Board member will not be employed or utilized to represent the Board in any official capacity except to serve as a professional reviewer. A former Board member may not hold himself or herself out as an official or unofficial representative of the Board. Any such representations are not binding upon the Board in any way. Disclosure of confidential or privileged information obtained by a former Board member in his or her capacity as a Board member is unprofessional conduct and grounds for disciplinary action by the Board.~~

Rule: 461.4. Replacement and Duplicate Licenses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.4. Replacement and Duplicate Licenses. Replacement and duplicate licenses may be obtained upon application and payment of the appropriate fee.~~

Rule: 461.5. Contents of License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.5. Contents of License. The license issued to a licensee will state the licensee's name, license number, and highest relevant academic degree held at the time of licensure. The annual renewal permit issued to a licensee will state the licensee's name and license number, but will not reflect any academic degrees.~~

Rule: 461.6. File Updates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.6. File Updates. An applicant or licensee is responsible for keeping his or her professional file updated. All changes must be reported to the Board in writing within 90 days. Additionally, a name change request must be accompanied by a copy of a current driver's license, social security card, marriage license, divorce decree or court order stating name change.~~

Rule: 461.7. License Statuses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.7. Licenses Statuses.~~

~~(a) Active Status. Any licensee with a license on active status may practice psychology pursuant to that license, subject to any restrictions imposed by the Board. Any license that is not on inactive, delinquent, retired, resigned, expired or revoked status is considered to be on active status. Active status is the only status under which a licensee may engage in the practice of psychology.~~

~~(b) Inactive Status.~~

~~(1) A licensee with an unrestricted active license may elect inactive status through the Board's online licensing system. A licensee who elects inactive status must return his or her current renewal certificate or permit for the license to the Board and pay the associated fee.~~

~~(2) A licensee with an inactive license is not required to comply with the professional development requirements set forth in Board rule 461.11 while his or her license is inactive.~~

~~(3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire.~~

~~(4) In order to continue on inactive status, an inactive licensee must renew his or her inactive status each renewal period. Licensees may renew their inactive status through the Board's online licensing system by completing the online renewal requirements and paying the associated fee.~~

~~(5) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Board's office. When reactivating a license, a licensee must pay the renewal fee~~

~~associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.~~

~~(6) — Any licensee reactivating a license from inactive status must provide proof of completion of 40 hours of professional development meeting the requirements of Board rule §461.11 of this title (relating to Professional Development) before reactivation will occur. The professional development hours must have been obtained within the 24 month period preceding the request for reactivation.~~

~~(7) — A licensee wishing to reactivate his or her license that has been on inactive status for four years or more must take and pass the Jurisprudence Exam with the minimum acceptable score as set forth in Board rule §463.14 of this title (relating to Written Examinations) unless the licensee holds another license on active status with this Board.~~

~~(8) — A licensee with a pending complaint may not place a license on inactive status. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.~~

~~(c) — Delinquent Status. A licensee who fails to renew his/her license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. The Board may sanction a delinquent licensee for violations of Board rules.~~

~~(d) — Restricted Status. Any license that is suspended, on probated suspension, or required to fulfill some requirements in a Board order is a restricted license.~~

~~(e) — Retirement Status. A licensee who is on active or inactive status with the Board may retire his/her license by notifying the Board in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire his/her license by notifying the Board in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire his/her license. A licensee who retires his/her license shall be reported to have retired in good standing.~~

~~(f) — Resignation Status. A licensee may resign only upon express agreement by the Board. A licensee who resigns shall be reported as:~~

~~(1) — Resigned in lieu of adjudication if permitted to resign while a complaint is pending; or~~

~~(2) — Resigned in lieu of further disciplinary action if permitted to resign while the license is subject to restriction.~~

~~(g) — Expired Status. A license that has been delinquent for twelve months or more or any inactive license that is not renewed or reactivated is considered to be expired.~~

~~(h) — Revoked Status. A license is revoked pursuant to Board Order requiring revocation as a disciplinary action.~~

Rule: 461.8. Remailing Fee

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.8. Remailing Fee. A license that has been mailed and not picked up by the addressee and which has been returned to the Board through no fault of the Board shall not be remailed until the licensee pays a remailing fee. See Chapter 473 of this title (relating to Fees).~~

Rule: 461.9. Conflicts of Interest and Recusals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.9. Conflicts of Interest and Recusals.~~

- ~~(a) — A board member who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties in a matter pending before the board, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Texas Government Code. However, if the required disclosure relates to a matter to be considered during a closed meeting, the board member shall disclose the conflict during the closed meeting. A board member may not vote or otherwise participate in any discussion or decision on a pending matter where the board member's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict disclosed by a board member shall be entered in the minutes of a meeting or the certified agenda.~~
- ~~(b) — An individual who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties while serving on a committee, temporary suspension or disciplinary panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as the executive director. The individual may not vote or otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.~~
- ~~(c) — A board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Texas Government Code regarding a complaint, eligibility proceeding, or disciplinary action previously heard by the board member while serving on a temporary suspension or disciplinary panel. A board member who is disqualified under this subsection shall recuse himself or herself from any voting or discussions on the matter, and the recusal shall be entered in the minutes of the meeting or the certified agenda.~~

- ~~(d) — Any individual who is required to make a disclosure, recuse himself or herself, or is restricted from voting or participating in some manner under this rule, shall also refrain from improperly influencing or attempting to improperly influence the discussion or decision on a matter in which the individual is prohibited from participating.~~
- ~~(e) — A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the executive director, who shall then forward the information to the individual.~~
- ~~(f) — It is presumed that the judgment of a reasonable person who is subject to this rule would not be materially affected because the individual holds a license issued by this agency.~~

Rule: 461.10. License Required.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.10. License Required.~~

- ~~(a) A person may not engage in or represent that the person is engaged in the practice of psychology within this State, unless the person is licensed or been issued trainee status by the Board, or the person is exempt under §501.004 of the Psychologists' Licensing Act.~~
- ~~(b) A person is engaged in the practice of psychology within this State if any of the criteria set out in §501.003(b) of the Psychologists' Licensing Act occurs within this State, either in whole or in part.~~
- ~~(c) The activity or service of a post doctoral fellow or resident in psychology is exempt from the Board's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
 - ~~(1) The person is enrolled in a formal post doctoral program that is:
 - ~~(A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or~~
 - ~~(B) substantially equivalent to a program described in subparagraph (A) of this paragraph;~~~~
 - ~~(2) The activities or services take place under qualified supervision and are part of the formal post doctoral program; and~~
 - ~~(3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.~~~~
- ~~(d) A formal post doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:~~

- ~~(1) — An organized experience with a planned and programmed sequence of supervised training experiences.~~
- ~~(2) — A designated psychologist responsible for the program who possesses expertise or competence in the program's area.~~
- ~~(3) — Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.~~
- ~~(4) — A minimum of 2 hours per week of face-to-face supervision.~~
- ~~(5) — A minimum of 2 additional hours per week of learning activities.~~
- ~~(6) — A minimum of 25% of the fellow's time is spent providing professional psychological services.~~
- ~~(7) — Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Board requirements.~~
- ~~(8) — A requirement that participants use titles such as intern, resident, fellow, or trainee.~~
- ~~(9) — Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for evaluations (minimum 2 per year), and a statement that the program meets Texas' licensure requirements.~~
- ~~(10) — At a minimum, an informal due process procedure regarding deficiencies and grievances.~~
- ~~(11) — A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.~~

Rule: 461.11. Professional Development

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.11. Professional Development.~~

- ~~(a) Requirements. All licensees of the Board are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period that they hold a license from the Board regardless of the number of separate licenses held by the licensee. Of these 40 hours, all licensees must complete a minimum of six hours of professional development in the areas of ethics, the Board's Rules of Conduct, or professional responsibility, and a minimum of six hours in the area of cultural diversity (these include, but are not limited to age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status).~~
- ~~(b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Board shall make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Board may require a licensee to produce, in addition to the documentation required by subsection (d) of this section, course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. The Board does not pre-approve professional development credit. The Board shall not allow professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.~~
- ~~(c) Professional development.~~
 - ~~(1) Required hours may be obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit more than once:~~

- (A) ~~attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;~~
- (B) ~~teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;~~
- (C) ~~presentation of a program or workshop; and~~
- (D) ~~authoring or editing publications.~~

(2) ~~Providers include:~~

- (A) ~~national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; or~~
- (B) ~~other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.~~

(3) ~~At least half of the required 40 hours of professional development must be obtained from or endorsed by a provider listed in subsection (c)(2)(A) of this section.~~

(4) ~~Credits will be provided as follows:~~

- (A) ~~For attendance at formal professional development activities, the number of hours pre-assigned by the provider.~~
- (B) ~~For teaching or attendance of a graduate level psychology course, four hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.~~

- ~~(C) — For presentations of workshops or programs, three hours for each hour actually presented, for a maximum of six hours per year. A particular workshop or presentation topic may not be utilized for professional development credit more than once.~~
- ~~(D) — For publications, eight hours for authoring or co-authoring a book; six hours for editing a book; four hours for authoring a published article or book chapter. A maximum credit of eight hours for publication is permitted for any one year.~~
- ~~(5) — Professional development hours must have been obtained during the 24-month renewal period for which they are submitted. If the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements. A professional development certificate may not be considered towards fulfilling the requirements for more than one renewal period.~~
- ~~(d) — Documentation. It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Board. Licensees shall maintain documentation of all professional development hours claimed for at least five years. The Board will accept as documentation of professional development:~~

 - ~~(1) — for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;~~
 - ~~(2) — for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;~~
 - ~~(3) — for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;~~
 - ~~(4) — for presenters of professional development workshops or programs, copies of the official program announcement naming the~~

licensee as a presenter and an outline or syllabus of the contents of the program or workshop;

(5) — for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;

(6) — for online or self study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.

(e) — ~~Electronic Declaration of Professional Development. All licensees must declare, on or before their renewal date, the professional development being submitted for the current renewal period through the Board's online renewal system. Licensees shall not submit documentation of professional development credits obtained unless requested to do so by the Board.~~

(f) — ~~Audit. The Board conducts two types of audits. Licensees shall comply with all Board requests for documentation and information concerning compliance with professional development and/or Board audits.~~

(1) — ~~Random audits. Each month, 10% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the Board's professional development requirements. The Board will notify a licensee by mail of the audit. Upon receipt of an audit notification, a licensee must submit his or her professional development documentation through the Board's online renewal system, or by fax, email, or regular mail before a license will be renewed.~~

(2) — ~~Individualized audits. The Board will also conduct audits of a specific licensee's compliance with its professional development requirements at any time that the Board determines that there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.~~

Rule: 461.12. Prohibition Against Dual Office Holding.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.12. Prohibition Against Dual Office Holding.~~

- ~~(a) Neither Board members nor the Executive Director may accept an offer to serve in another nonelective office unless they first obtain from the Board a finding that they have satisfied Article XVI, Section 40, of the Texas Constitution.~~
- ~~(b) The Board must make a written record of any finding under subsection (a). The finding must include any compensation that the Board member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment.~~

Rule: 461.13. Errors

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.13. Errors. If the Board discovers an error was made in processing an application, in examining an applicant, or in any of its other activities, the Board has the authority to correct this error.~~

Rule: 461.14. Conflicts Between Other Laws and Board Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.14. Conflicts Between Other Laws and Board Rules. In the event of a conflict between a Board rule and the state or federal constitution; a state or federal statute; or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.~~

Rule: 461.15. Compliance with Act, Rules, Board Directives and Orders.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.15. Compliance with Act, Rules, Board Directives and Orders. Licensees must comply with the Act, Rules, Board Directives and Board Orders and Must cooperate with Board investigations as prescribed in §465.35 of this title. Failure to comply may subject the licensee to a Board-initiated complaint and disciplinary action.~~

Rule: 461.16. Filing of False or Misleading Information with the Board.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.16. Filing of False or Misleading Information with the Board.~~

- ~~(a) Applicants. Applicants are prohibited from providing misleading or false information in their applications and required documentation for licensure. For an infraction of this type, the Board may agree to process the application pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Board may deny licensure.~~
- ~~(b) Licensees. The Board will file a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application for licensure or renewal. For an infraction that led to the licensure or renewal of an unqualified person, the Board may revoke the license or deny any future renewal of the license.~~

Rule: 461.17. Profile Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.17. Profile Information. The Board is required to establish a system whereby licensed psychologists will have public profile information maintained by the Board. The Board must collect a fee to be set by the Texas Online Authority beginning in 2002 for this system. Licensed psychologists must supply this information as a condition of annual renewal. This information may be supplied as a part of the online renewal process. The Board collects the following information as part of its profile information on licensed psychologists:~~

- ~~(1) The name of the licensed psychologist and address and telephone number of the psychologist's primary practice location;~~
- ~~(2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to persons with disabilities, as defined by federal law;~~
- ~~(3) the type of language translating services, including translating services for a person with impairment of hearing, that the psychologist provides for patients, clients, users, customers, or consumers, as applicable;~~
- ~~(4) if applicable, insurance information, including whether the psychologist participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;~~
- ~~(5) the education and training received by the psychologist, as required by the licensing entity;~~
- ~~(6) any specialty certification held by the psychologist;~~
- ~~(7) the number of years the person has practiced as a psychologist; and~~
- ~~(8) if applicable, any hospital affiliation of the psychologist.~~

Rule: 461.19. Petition for Rulemaking.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.19. Petition for Rulemaking. Any person may petition for rulemaking in accordance with §2001.021 of the Administrative Procedure Act by submitting a written request to the Board at least 60 days prior to a Board meeting setting forth or identifying the rule the petitioner wants the Board to adopt or change, the reasons why the petitioner believes the requested rulemaking is necessary, and attaching a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined.~~

Rule: 461.20. Agency Staff Training and Education.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.20. Agency Staff Training and Education.~~

- ~~(a) In accordance with the State Employee Training Act, Board staff may be permitted or required to attend training or education programs if those programs are related to the employee's duties or prospective duties, and the training materially aids effective administration of the Psychologists' Licensing Act or Board rules and serves an important public purpose.~~
- ~~(b) The Board's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.~~
- ~~(c) Employees who receive training must utilize the training opportunity to prepare for technological and legal developments facing the Board, or to increase their work capabilities or competence.~~
- ~~(d) An employee, prior to receiving training for three or more months, during which the employee does not perform his or her regular duties, must enter into a written agreement with the Board to comply with the requirements of Tex. Gov't Code Ann. §656.103(a)(1). Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.~~
- ~~(e) The Board shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Board's own policies relating to employee reimbursement.~~

Rule: 461.21. Sick Leave Pool.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.21. Sick Leave Pool.~~

- ~~(a) The Board hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.~~
- ~~(b) The Board's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Texas Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.~~
- ~~(c) The Executive Director shall develop and prescribe procedures for the operation of the sick leave pool, and include such procedures in the Board's personnel manual.~~

Rule: 461.22. Agency Contracts and Purchasing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.22. Agency Contracts and Purchasing.~~

- ~~(a) In accordance with Tex. Gov't Code Ann. §2155.076, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 Tex. Admin. Code §20.384. All vendor protests under this rule must be submitted to the Board's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Board for final determination. The Board shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Board's retention schedule.~~
- ~~(b) In accordance with Tex. Gov't Code Ann. §2156.005, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 Tex. Admin. Code §20.35.~~
- ~~(c) In accordance with Tex. Gov't Code Ann. §2260.052, the Board adopts by reference the rules of the Office of the Attorney General in 1 Tex. Admin. Code Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.~~
- ~~(d) In accordance with Tex. Gov't Code Ann. §2261.202, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.~~

Rule: 461.35. Use of Historically Underutilized Businesses (HUBS).

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.35. Use of Historically Underutilized Businesses (HUBS). In accordance with Texas Government Code §2161.003, the Board adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B (relating to Historically Underutilized Business Program).~~

Repeal of Chapter 463

Rule: 463.1. Types of Licensure.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.1. Types of Licensure. The Board accepts application for four types of license to practice psychology in the state of Texas:~~

- ~~(1) Licensed Psychological Associate. This is a license for qualified individuals with a graduate degree to practice psychology. Requirements for the psychological associate license are found in §463.8 of this title (relating to Licensure as a Psychological Associate) and §463.14 of this title (relating to Written Examinations).~~
- ~~(2) Licensed Specialist in School Psychology. This license is required by law for the practice of school psychology in the public schools of Texas. Requirements for the specialist in school psychology license are found in §463.9 of this title (relating to Licensure as a Specialist in School Psychology) and §463.14 of this title.~~
- ~~(3) Provisionally Licensed Psychologist. This is a doctoral level license to practice psychology under the supervision of a licensed psychologist. This license is a prerequisite for licensure as a psychologist. Requirements for provisionally licensed psychologist are found in §463.10 of this title (relating to Provisionally Licensed Psychologist) and §463.14 of this title.~~
- ~~(4) Licensed Psychologist. This is a doctoral level license for the independent practice of psychology. It is obtained by two means:
 - ~~(A) Obtaining provisional licensure as a psychologist and completing the required two years of supervised experience. Requirements for licensure as a psychologist are found in §463.11 of this title (relating to Licensed Psychologist), and §463.14 of this title.~~
 - ~~(B) Applying from a jurisdiction which holds a reciprocity agreement with Texas, meeting the Board's requirements~~~~

~~for licensure by reciprocity, and passing the Board's Jurisprudence Exam. Criteria for reciprocity jurisdictions are listed in §463.29 of this title (relating to Reciprocity Requirements). Requirements for licensure as a psychologist by means of reciprocity are found in §463.12 of this title (relating to Licensed Psychologist by Reciprocity) and §463.14 of this title.~~

Rule: 463.2. Application Process

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.2. Application Process. Applications for licensure are processed in the following manner:~~

- ~~(1) An individual must download, or otherwise obtain and complete the application packet for the type of licensure desired from the Board's website. No applicant can have more than one application pending before the Board at one time, unless the second application is to become a licensed specialist in school psychology.~~
- ~~(2) An applicant submits the completed application form, any other information required by the Board, and the application filing fee. An application which contains an incorrect fee amount or which does not include the information required to be submitted must be returned to the applicant. The responsibility of ensuring a complete application resides with the applicant. The application packet will contain a checklist which should be followed carefully. An incomplete application remains in the active file for 90 days following receipt by the Board, at the end of which time, if still incomplete, it is void. If licensure is sought again, a new application and filing fee must be submitted.~~
- ~~(3) Applications which contain all required information are reviewed by Board staff, and if necessary the Applications Committee of the Board, to determine if the applicants are eligible to sit for the examinations.~~
- ~~(4) Once an application is reviewed, the applicant receives a letter from the Board approving or denying the applicant to sit for the examinations. If the letter indicates the applicant is approved, the applicant may then submit an examination application and the appropriate fees for any required examinations.~~
- ~~(5) After sitting for examination(s), an applicant is informed in writing of the results of the examination(s). An applicant who has passed~~

~~the examination(s) is informed in writing that the applicant has been licensed.~~

- ~~(6) — If an applicant's application for licensure is denied, the applicant shall have 20 days from the date of denial to submit a written request to the Board for a hearing at the State Office of Administrative Hearings. The Board must receive the written request on or before the 20th day following the date of denial for the request to be timely made. If a timely request is made, the Board shall refer the contested case to the State Office of Administrative Hearings for a hearing. If a timely written request is not made, the denial is final.~~

Rule: 463.3. Applicants with Pending Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.3. Applicants with Pending Complaints. For any applicant against whom a complaint is filed with this Board, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. If the complaint is not resolved within 180 days after an application has been held in abeyance, the Board shall review the complaint and make a determination as to whether to issue the license notwithstanding the complaint. In making the determination, the Board shall consider any relevant factor, including the potential for harm to the public if the license is granted, and the nature and severity of the allegations. The applicant will be permitted to take all required exams as scheduled but will not be licensed until approved by the Board.~~

Rule: 463.4. Applicants with Disabilities

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.4. Applicants with Disabilities.~~

- ~~(a) The Texas State Board of Examiners of Psychologists shall comply with applicable provisions of the Americans with Disabilities Act in its applications procedures by providing reasonable accommodations that do not violate the Board's Act and Rules.~~
- ~~(b) It is the responsibility of the individual applicant to inform the Board in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the Board. Only requests which give the Board sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency shall be considered.~~
- ~~(c) Dyslexia. Dyslexia is defined by §51.970 of the Texas Education Code. The Board will provide reasonable accommodation to an applicant for licensure who complies with subsection (b) of this section and who provides proof of a diagnosis of dyslexia from a qualified practitioner. The practitioner should also identify the type of examination accommodation that is recommended for the applicant.~~

Rule: 463.5. Application File Requirements.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.5. Application File Requirements. To be complete, an application file must contain whatever information or examination results the Board requires. Unless specifically stated otherwise by Board rule, all applications for licensure by the Board must contain:~~

- ~~(1) An application and required fee(s);~~
- ~~(2) Official transcripts indicating the date the degree required for licensure was awarded or conferred. Transcripts must be sent directly to the Board's office from all colleges/universities where post-baccalaureate course work was completed;~~
- ~~(3) Documentation that applicant has complied with Board Rule §463.14 of this title (relating to Written Examinations);~~
- ~~(4) A criminal history record check of the applicant from the Texas Department of Public Safety and the Federal Bureau of Investigation; and~~
- ~~(5) Supportive documentation and other materials the Board may deem necessary, including current employment arrangements and the name of all jurisdictions where the applicant currently holds a certificate or license to practice psychology.~~

Rule: 463.6. Regionally Accredited Institutions.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.6. Regionally Accredited Institutions. A regionally accredited educational institution stated in §§501.255(a)(1)(A), 501.259, 501.004 and 501.260 of the Act is defined as an educational institution accredited by one of the following regional accrediting organizations:~~

- ~~(1) Southern Association of Colleges and Schools Commission on Colleges~~
- ~~(2) Western Association of Schools and Colleges, Senior College and University Commission~~
- ~~(3) Northwest Commission on Colleges and Universities~~
- ~~(4) Higher Learning Commission~~
- ~~(5) New England Association of Schools and Colleges~~
- ~~(6) Middle States Commission on Higher Education, also known as the Mid-Atlantic Region Commission on Higher Education.~~

Rule: 463.7. Criminal History Records Reports.

Action: Proposed Repeal

Comment:

~~463.7. Criminal History Records Reports.~~

- ~~(a) Before issuing a license, the Board will obtain or require the applicant to obtain a criminal history record report as determined by the Board.~~
- ~~(b) The Board will obtain updated criminal history record reports on all licensees quarterly from the Texas Department of Public Safety.~~
- ~~(c) The Board may obtain an updated criminal history record report at any time on a licensee alleged to have violated the Act or rules of the Board.~~
- ~~(d) Each licensee who was not required to submit a fingerprint criminal history record report as a condition of licensure must submit a fingerprint criminal history record report to the Board as a condition for renewal. This one-time renewal requirement begins for January 2015 renewals and will be phased in with approximately one-fourth of licensees required to submit their reports in the first calendar year and remaining licensees required to submit their reports in the following three calendar years as prescribed by the Board. A report must be received by the Board before the eligible licensee is allowed to renew the license.~~
- ~~(e) A licensee requesting their license be returned to active status from inactive status, must undergo a fingerprint criminal history check before their license will be returned to active status if the licensee has not submitted to a fingerprint criminal history check for the Board in the past. A report must be received by the Board before the license will be returned to active status.~~

Rule: 463.8. Licensed Psychological Associate

Action: Proposed Repeal

Comment:

~~463.8. Licensed Psychological Associate.~~

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

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

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

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

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

~~(A) Psychological Foundations:~~

~~(i) the biological bases of behavior;~~

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

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

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

~~(B) Research and Statistics:~~

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

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

~~(C) — Applied Psychology:~~

- ~~(i) — the history, theory, and application of psychological principles;~~
- ~~(ii) — the application of psychological theories to individuals, families, and groups;~~

~~(D) — Assessment:~~

- ~~(i) — intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;~~
- ~~(ii) — socio-economic, including behavioral, adaptive, and cultural assessment;~~

~~(E) — Interventions:~~

- ~~(i) — the application of therapeutic techniques;~~
- ~~(ii) — behavior management;~~
- ~~(iii) — consultation; and~~

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

~~(b) — Degree Requirements.~~

~~(1) — For purposes of this rule:~~

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

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

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

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

~~(3) — Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the board with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.~~

~~(c) — Supervision Requirements.~~

~~(1) — A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.~~

~~(2) — Notwithstanding subsection (c)(1) and subject to the limitations set out in subsection (c)(3) below, a licensed psychological associate may practice independently if:~~

~~(A) — the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;~~

~~(B) — the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and~~

~~(C) — the licensee submits an application for independent practice evidencing proof of the required supervised experience.~~

~~(3) — A licensed psychological associate meeting the requirements of subsection (c)(2) shall be approved for independent practice, but remains subject to all board rules, including Board rule §465.9 relating to competency.~~

~~(4) — Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.~~

~~(5) — Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.~~

~~(d) — Notwithstanding subsection (c)(3), an application for independent practice may be denied if a gap of more than two years exists between the~~

~~completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Board rule §463.11 shall govern any request for a waiver under this rule.~~

- ~~(e) — The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."~~
- ~~(f) — A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Board describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Board's website.~~
- ~~(g) — Continuation of Prior Law.~~
 - ~~(1) — Notwithstanding subsection (b)(1)(A), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.~~
 - ~~(2) — Notwithstanding subsection (b)(2), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.~~
- ~~(h) — Notwithstanding subsections (c)(1)-(3), a licensed psychological associate with an active license as of September 1, 2017 who maintained an active license throughout the three years preceding that date, is considered to have met the requirements of subsection (c)(2) and may practice independently in accordance with subsection (c)(3).~~

Rule: ~~463.9. Licensed Specialist in School Psychology.~~

Action: ~~Proposed Repeal~~

Comment:

~~463.9. Licensed Specialist in School Psychology.~~

~~(a) Application Requirements. A completed application for licensure as a specialist in school psychology includes the following, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements):~~

~~(1) Documentation of an appropriate graduate degree; and~~

~~(2) Documentation from the National School Psychologists' Certification Board sent directly to the Board indicating the applicant holds current valid certification as a Nationally Certified School Psychologist (NCSP); or documentation of the following sent directly to the Board:~~

~~(A) transcripts that verify that the applicant has met the requirements set forth in subsection (b) of this section;~~

~~(B) proof of the internship required by subsection (c) of this section if the applicant did not graduate from either a training program approved by the National Association of School Psychologists (NASP) or a training program in school psychology accredited by the American Psychological Association (APA); and~~

~~(C) the score that the applicant received on the School Psychology Examination sent directly from the Education Testing Service.~~

~~(b) Training Qualifications.~~

~~(1) Applicants for licensure as a specialist in school psychology who hold a valid NCSP certification or who have graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association will be considered to have met the training and internship requirements of this rule.~~

~~(2) Applicants for licensure who do not hold a valid NCSP certification, or who did not graduate from a training program~~

approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited academic institution. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited academic institution. A maximum of 12 internship hours may be counted toward the 60 hour requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology. Applicants applying under this paragraph must submit evidence of graduate level coursework as follows:

(A) Psychological Foundations, including:

- (i) biological bases of behavior;
- (ii) human learning;
- (iii) social bases of behavior;
- (iv) multi-cultural bases of behavior;
- (v) child or adolescent development;
- (vi) psychopathology or exceptionalities;

(B) Research and Statistics;

(C) Educational Foundations, including any of the following:

- (i) instructional design;
- (ii) organization and operation of schools;
- (iii) classroom management; or
- (iv) educational administration;

(D) Assessment, including:

- (i) psychoeducational assessment;

~~(ii) — socio-emotional, including behavioral and cultural, assessment;~~

~~(E) — Interventions, including:~~

~~(i) — counseling;~~

~~(ii) — behavior management;~~

~~(iii) — consultation;~~

~~(F) — Professional, Legal and Ethical Issues; and~~

~~(G) — A Practicum.~~

~~(c) — Completion of internship. Applicants must have completed an internship with a minimum of 1200 hours. The internship must also meet the following criteria:~~

~~(1) — At least 600 of the internship hours must have been completed in a public school.~~

~~(2) — The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Board rule §463.11(d)(1) and (d)(2)(C) of this title.~~

~~(3) — Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.~~

~~(4) — No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.~~

~~(5) — Unless authorized by the Board, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.~~

~~(6) — Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.~~

- (7) — ~~Internship hours must be obtained in not less than one or more than two academic years.~~
- (8) — ~~An individual completing an internship under this rule must be designated as an intern.~~
- (9) — ~~Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.~~
- (10) — ~~The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.~~
- (d) — ~~Additional Requirements. In addition to the requirements of subsection (a) through (c) of this section, applicants for licensure as a specialist in school psychology must meet the requirements imposed under §501.255(a)(2)–(9) of the Psychologists' Licensing Act.~~
- (e) — ~~Examinations. Applicants must take the National School Psychology Examination and obtain at least the current cut-off score for the NCSP certification before applying for licensure as a specialist in school psychology. Following approval to sit for Board exams, an applicant must take and pass the Jurisprudence Examination within the time required by Board rule §463.19.~~
- (f) — ~~Trainee Status.~~

 - (1) — ~~An applicant for the specialist in school psychology license who has not yet passed the Board's Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.~~
 - (2) — ~~A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Board's Jurisprudence Examination.~~
 - (3) — ~~An individual with trainee status is subject to all applicable laws governing the practice of psychology.~~
 - (4) — ~~A trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be~~

~~made the subject of an eligibility proceeding. The one-year period for trainee status shall not be tolled by any suspension of the trainee status.~~

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

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

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

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

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

~~(B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Board that has not been denied, returned, or gone void under Board rule §463.2 of this title (relating to Application Process); or~~

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

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

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

~~(4) The authority to practice referenced in paragraphs (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Board will not~~

~~issue more than one trainee status letter to an individual, regardless of the number of applications filed.~~

Rule: 463.10. Provisionally Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.10. Provisionally Licensed Psychologists.~~

~~(a) Application Requirements.~~

~~(1) An application for provisional licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements), an official transcript which indicates that the applicant has received a doctoral degree in psychology. Additionally, the applicant must meet the requirements of §501.255 of the Psychologists' Licensing Act.~~

~~(2) An application for provisional licensure as a psychologist may be filed up to sixty days prior to the date the applicant's doctoral degree is officially conferred, but remains subject to Board rule §463.2 of this title (relating to Application Process).~~

~~(b) Degree Requirements.~~

~~(1) The applicant's transcript must state that the applicant has a doctoral degree that designates a major in psychology. Additionally, the doctoral degree must be from a program accredited by the American Psychological Association or from a regionally accredited institution.~~

~~(2) The substantial equivalence of a doctoral degree received prior to January 1, 1979, based upon a program of studies whose content is primarily psychological means a doctoral degree based on a program which meets the following criteria:~~

~~(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.~~

- (B) — ~~The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.~~
- (C) — ~~The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.~~
- (D) — ~~There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or provisionally licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.~~
- (E) — ~~The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.~~
- (F) — ~~The program must have an identifiable body of students who matriculated in the program.~~
- (G) — ~~The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12-month period nor more than a 24-month period. Further, this requirement cannot have been obtained in more than two placements or agencies.~~
- (H) — ~~The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a~~

master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(I) — The following curricular requirements must be met and demonstrated through appropriate course work:

(i) — Scientific and professional ethics related to the field of psychology.

(ii) — Research design and methodology, statistics.

(iii) — The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B-level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Board evidence of competency in each of the four core areas.

(I) — Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.

(II) — Cognitive-affective basis of behavior: Learning, thinking, motivation, emotion.

(III) — Social basis of behavior: social psychology, group processes, organizational and system theory.

(IV) — Individual differences: personality theory, human development, abnormal psychology.

(J) — All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must

demonstrate a minimum of 24 hours in his/her designated specialty area.

(3) — ~~Any person intending to apply for provisional licensure under the substantial equivalence clause must file with the Board an affidavit showing:~~

(A) — ~~Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;~~

(B) — ~~Information regarding each of the instructors in the courses submitted as substantially equivalent;~~

(C) — ~~Appropriate, published information from the university awarding the degree, demonstrating that in paragraph (2)(A)(J) of this subsection have been met.~~

(c) — ~~An applicant for provisional licensure as a psychologist who is accredited by Certificate of Professional Qualification in Psychology (CPQ) or the National Register or who is a specialist of ABPP will have met the following requirements for provisional licensure: submission of an official transcript which indicates the date the doctoral degree in psychology was awarded or conferred, and submission of documentation of the passage of the national psychology examination at the doctoral level at the Texas cut-off score. All other requirements for provisional licensure must be met by these applicants. Additionally, these applicants must provide documentation sent directly from the qualifying entity to the Board office declaring that the applicant is a current member in the organization and has had no disciplinary action from any state or provincial health licensing board.~~

(d) — ~~Trainee Status for Provisional Applicants.~~

(1) — ~~An applicant for provisional licensure who has not yet passed the EPPP and Jurisprudence Examination, but who otherwise meets all provisional licensing requirements and is seeking to acquire the supervised experience required by §501.252(b)(2) of the Psychologists' Licensing Act, may practice under the supervision of a Licensed Psychologist as a provisional trainee for not more than two years.~~

(2) — ~~A provisional trainee status letter shall be issued to an applicant upon proof of provisional licensing eligibility, save and except proof of passage of the EPPP and Jurisprudence Examination. However, a provisional trainee status letter will not be issued to an~~

~~applicant who was issued a provisional trainee status letter in connection with a prior application.~~

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

~~(4) — A provisional trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The two years period for provisional trainee status shall not be tolled by any suspension of the provisional trainee status.~~

~~(5) — Following official notification from the Board upon passage of the EPPP and Jurisprudence Examination, or the expiration of two years, whichever occurs first, an individual's provisional trainee status shall terminate.~~

Rule: 463.11. Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.11. Licensed Psychologists.~~

~~(a) Application Requirements. An application for licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5(1) of this title (relating to Application File Requirements):~~

~~(1) Documentation of active licensure as a provisionally licensed psychologist in good standing.~~

~~(2) Documentation of supervised experience from a licensed psychologist which satisfies the requirements of the Board. The formal internship should be documented by the Director of Internship Training when possible, but may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program if the Director of Internship Training is unavailable.~~

~~(3) Documentation of licensure in other jurisdictions, including information on disciplinary action and pending complaints, sent directly to the Board.~~

~~(b) Degree Requirements. The degree requirements for licensure as a psychologist are the same as for provisional licensure as stated in Board rule §463.10 of this title (relating to Provisionally Licensed Psychologist).~~

~~(c) An applicant who is actively licensed as a psychologist in another jurisdiction, and who meets each of the following requirements, is considered to have met the requirements for supervised experience under this rule:~~

~~(1) The applicant must affirm that he or she has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum~~

of 1,500 hours) must have been completed after the doctoral degree was conferred or completed; and

(2) — The applicant must submit a self query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB.

(d) — Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been received after obtaining either provisional trainee status or provisional licensure, and at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program. A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant who received his or her doctoral degree prior to September 1, 2017. Following the conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting; while licensed or authorized to practice in another jurisdiction; or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisional trainee or provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this subsection if the experience was obtained under the supervision of a licensed psychologist.

(1) — General. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:

(A) — Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.

(B) — Gaps Related to Supervised Experience.

(i) — Unless a waiver is granted by the Board, an application for a psychologist's license will be denied if:

- ~~(I) — a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date the applicant began obtaining his or her hours of supervised experience under provisional trainee status or provisional licensure; or~~
 - ~~(II) — a gap of more than two years exists between the completion date of an applicant's hours of supervised experience acquired as a provisional trainee or provisionally licensed psychologist, and the date of application.~~
 - ~~(ii) — The Board shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:~~
 - ~~(I) — proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Act, during any gap period;~~
 - ~~(II) — proof of annual professional development, which at a minimum meets the Board's professional development requirements, during any gap period;~~
 - ~~(III) — proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or~~
 - ~~(IV) — proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.~~
- ~~(C) — A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program~~

~~whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.~~

- ~~(D) — The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.~~
- ~~(E) — All supervised experience must be received from a psychologist licensed at the time supervision is received.~~
- ~~(F) — The supervising psychologist must be trained in the area of supervision provided to the supervisee.~~
- ~~(G) — Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.~~
- ~~(H) — All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Board rules.~~
- ~~(I) — Unless authorized by the Board, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.~~
- ~~(J) — The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use his or her title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use his or her title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Board rule.~~

(2) ~~Formal Internship. The formal internship hours must be satisfied by one of the following types of formal internships:~~

(A) ~~The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or~~

(B) ~~The successful completion of an organized internship meeting all of the following criteria:~~

(i) ~~It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.~~

(ii) ~~The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.~~

(iii) ~~The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.~~

(iv) ~~Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.~~

(v) ~~The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.~~

(vi) ~~At least 25% of trainee's time must be in direct patient/client contact.~~

- ~~(vii) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.~~
- ~~(viii) Training must be post-clerkship, post-practicum and post-externship level.~~
- ~~(ix) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.~~
- ~~(x) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or~~
- ~~(C) The successful completion of an organized internship program in a school district meeting the following criteria:~~
 - ~~(i) The internship experience must be provided at or near the end of the formal training period.~~
 - ~~(ii) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.~~
 - ~~(iii) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.~~
 - ~~(iv) The internship experience must occur in a setting appropriate to the specific training objectives of the program.~~
 - ~~(v) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.~~

- (vi) — The internship experience must occur under conditions of appropriate supervision. Field based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
- (vii) — Field based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
- (viii) — Field based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field based internship supervisors and shall provide at least one field based contact per semester with each intern.
- (ix) — The internship site shall inform interns concerning the period of the internship and the training objectives of the program.
- (x) — The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
- (xi) — The internship experience must be conducted in a manner consistent with the current legal ethical standards of the profession.
- (xii) — The internship agency must have a minimum of two full time equivalent interns at the internship level during the applicant's training period.
- (xiii) — The internship agency must have the availability of at least two full time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.

~~(3) — Industrial/Organizational Requirements. Individuals enrolled in an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete 3,500 hours of supervised experience meeting the requirements of paragraph (1) of this subsection, at least 1,750 of which must have been received as a provisional trainee or provisionally licensed psychologist. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Board rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.~~

~~(4) — Licensure Following Retraining.~~

~~(A) — In order to qualify for licensure after undergoing retraining, an applicant must demonstrate the following:~~

~~(i) — conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing retraining;~~

~~(ii) — completion of a formal, accredited post doctoral retraining program in psychology which included at least 1,750 hours in a formal internship;~~

~~(iii) — retraining within the two year period preceding the date of application for licensure under this rule, or continuous employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act since receiving their doctoral degree; and~~

~~(iv) — upon completion of the retraining program, at least 1,750 hours of supervised experience after obtaining either provisional trainee status or provisional licensure.~~

~~(B) — An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.~~

Rule: 463.12. Licensure by Reciprocity.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.12. Licensure by Reciprocity. An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:~~

~~-~~

- ~~(1) Submit an application and corresponding fee;~~
- ~~(2) Submit written verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity. The written verification must be sent directly to the Board from the other jurisdiction;~~
- ~~(3) Submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB;~~
- ~~(4) Pass the jurisprudence examination;~~
- ~~(5) Undergo a fingerprint based criminal history check which reflects no disqualifying criminal history; and~~
- ~~(6) Submit any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.~~

463.14. Written Examinations

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.14. Written Examinations.~~

- ~~(a) Jurisprudence Examination. All applicants for licensure by the Board are required to pass the Jurisprudence Examination prior to licensure.~~
- ~~(b) Examination in School Psychology. Applicants for licensure as a specialist in school psychology must take the National School Psychology Examination administered by the Educational Testing Service and obtain at least the current cut-off score for the National Certified School Psychologist before applying for the Licensed Specialist in School Psychology.~~
- ~~(c) Examination for Professional Practice in Psychology. All applicants for licensure as a psychological associate, provisional licensure as a psychologist, or licensure as a psychologist are required to pass the Examination for Professional Practice in Psychology (EPPP) prior to the Board granting licenses.~~
- ~~(d) Applicants Having Previously Taken the EPPP. An applicant for licensure who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided that:
 - ~~(1) the applicant's score satisfies the Board's current minimum acceptable score for licensure; and~~
 - ~~(2) the applicant can demonstrate that he/she has remained professionally involved in psychology; i.e., at least half-time professional employment and/or academic enrollment in a regionally accredited educational institution.~~~~
- ~~(e) Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored on the pencil and paper version of the test. For computer delivered EPPP examinations, the cutoff scaled scores is 500.~~

~~(f) — Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the jurisprudence examination for all licensure applicants is ninety percent (90%).~~

Rule: 463.16. Disclosure of Examination Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.16. Disclosure of Examination Information. It is a violation of Board rules for any applicant or licensee to disclose any information about the contents or administration of the Board's examinations that could affect the validity of the examination.~~

Rule: 463.17. Rescheduling of Examination Due to Religious Holy Day.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.17. Rescheduling of Examination Due to Religious Holy Day.~~

- ~~(a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Board on that religious holy day will be allowed to take the examination on an alternate date.~~
- ~~(b) Applicants wishing to take an examination scheduled on a religious holy day on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.~~
- ~~(c) The Board may extend the time period for completing Board examinations set forth in Board rule §463.19 of this title (relating to Time Limit on Examination Failures and Passing Scores), as needed when scheduling an alternate examination date.~~

Rule: 463.18. Failing Written Examinations.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.18. Failing Written Examinations. Applicants who fail the written examinations are permitted to take them again by paying additional examination fees.~~

Rule: 463.19. Time Limit on Examination Failures and Passing Scores.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.19. Time Limit on Examination Failures and Passing Scores.~~

~~(a) Applicants must successfully pass all examinations required of them within two years from the date they are approved by the Board to sit for the exams.~~

~~(b) For the purpose of fulfilling application requirements for licensure, a passing score on the Board's Jurisprudence Examination is valid for only four years, unless the applicant has other active licensure with the Board at the time the application is received by the Board.~~

Rule: 463.20. Refunds and Transfer of Application and Examination Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.20. Refunds and Transfer of Application and Examination Fees.~~

~~(a) Application fees are non-refundable and non-transferable.~~

~~(b) The Jurisprudence Examination fee may be transferred to a subsequent examination when an applicant fails to timely complete the examination, if an applicant makes a written request for a transfer and provides the Board with documentation demonstrating good cause for why the applicant failed to timely complete the examination. Upon written request and showing of good cause, the Board shall excuse the applicant's failure to timely complete the examination, and allow the Board's portion of the examination fee to be applied, one time only, toward a subsequent examination. The Applicant, however, must pay that portion of the examination fee attributable to the third-party vendor administering the online examination, before they will be allowed to retake the examination.~~

Rule: 463.21. Board Members as Reviewers of Examination.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.21. Board Members as Reviewers of Examination. All Board members serve as reviewers of written examination materials and procedures unless a member is matriculated in a graduate program in psychology or is related within the second degree of affinity or within the second degree of consanguinity to a person who matriculated in a graduate program in psychology.~~

Rule: 463.22. Reinstatement of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.22. Reinstatement of a License.~~

- ~~(a) A person whose license to practice psychology has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.~~
- ~~(b) An application for reinstatement shall be in writing and in the form prescribed by the Board.~~
- ~~(c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation.~~
- ~~(d) The Board may approve or deny an application for reinstatement, and in the case of a denial, the Board may also set a reasonable time period that must elapse before another application may be filed. The Board may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.~~
- ~~(e) A person seeking reinstatement of a license shall appear before the Board in person to answer any questions or address any concerns raised by his or her application if requested by a board member or the executive director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.~~
- ~~(f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:~~
 - ~~(1) payment of the application fee;~~
 - ~~(2) submission of a self query report from the National Practitioner Data Bank (NPDB). The report must be submitted with the~~

~~application in the sealed envelope in which it was received from the NPDB;~~

~~(3) — passage of the jurisprudence examination;~~

~~(4) — a fingerprint based criminal history check which reflects no disqualifying criminal history; and~~

~~(5) — submission of any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.~~

~~(g) — An applicant seeking reinstatement of a license that has been retired or expired for five years or more or a license that has been revoked or resigned, must also demonstrate completion of at least forty hours of professional development within the twenty-four month period preceding the date of application. The professional development must meet the requirements of Board rule §461.11 of this title (relating to Professional Development).~~

~~(h) — The Board will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:~~

~~(1) — the circumstances surrounding the expiration, revocation, or resignation of the license;~~

~~(2) — the conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;~~

~~(3) — the lapse of time since the expiration, revocation, or resignation of the license;~~

~~(4) — compliance with all terms and conditions imposed by the Board in any previous board order; and~~

~~(5) — the applicant's present qualification to practice psychology based on his or her history of psychology-related employment, service, education, or training, as well as his or her professional development in psychology since the expiration, revocation, or resignation of the license.~~

~~(i) — Notwithstanding time limits on original applications and examinations found elsewhere in Board rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass the jurisprudence examination within the 180 day time period specified by the Board. Failure to do so shall result in the~~

~~application for reinstatement expiring. The Board will send each applicant a letter specifying the 180 day time period upon receipt of a completed application for reinstatement and application fee.~~

Rule: 463.23. Criteria for Examination Consultants.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.23. Criteria for Examination Consultants. The Board may employ licensees to act as consultants for purposes of developing and administering the Jurisprudence Examination. All such consultants shall be considered as agents of the Board. To be eligible to serve as a consultant for an examination, an individual must:~~

- ~~(1) Be currently licensed by the Board and must have three years of experience in their area of expertise as a licensee;~~
- ~~(2) Not be related within the second degree of affinity (marriage) or consanguinity (blood relationship) to an individual who has applied to take the examination;~~
- ~~(3) Have no restrictions or pending complaints against his/her license; and~~
- ~~(4) Be approved by the Board.~~

Rule: 463.25. Foreign Graduates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.25. Foreign Graduates:~~

- ~~(a) Prior to submitting an application for licensure, the potential applicant shall provide the Board with documents and evidence to establish that his/her formal education is equivalent to a masters or doctoral degree, as required by the Psychologists' Licensing Act and Rules and Regulations of the Board, granted by a United States university that is regionally accredited. The registrar of the University of Texas at Austin must certify that, after reviewing the required documentation, the degree is equivalent to a masters or doctoral degree granted from a regionally accredited educational institution. The potential applicant shall provide the Board with the following:~~
- ~~(1) An original or certified copy of a diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained.~~
 - ~~(2) A transcript or comparable document of all course work completed.~~
 - ~~(3) A certified translation of all documents submitted in a language other than English.~~
 - ~~(4) Satisfactory evidence of supervised experience.~~
 - ~~(5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself.~~
 - ~~(6) A statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.~~

~~(7) — A check or money order made payable to the University of Texas at Austin to cover the cost of reviewing the required documentation. The fee for this service is set by the University of Texas at Austin.~~

~~(b) — After receiving formal notification from the University of Texas at Austin that the potential applicant's formal education is equivalent to a masters or doctoral degree from a regionally accredited educational institution in the United States the Board will notify the potential applicant of the equivalency of his/her academic degree and will then accept a formal application for licensure.~~

Rule: 463.26. Health Service Provider in Psychology Specialty Certification.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.26. Health Service Provider in Psychology Specialty Certification.~~

- ~~(a) Health Service Provider (HSP) in Psychology is a specialty certification from the Board available to Texas licensed psychologists who are listed in the National Register of Health Service Providers. The National Register defines a health service provider as one who is trained and experienced in the delivery of direct, preventive, assessment, and therapeutic intervention services to individuals whose growth, adjustment, or functioning is impaired, or to individuals who otherwise seek services. This credential does not constitute a license to practice psychology under the Act. The Board will continue to recognize all individuals who were certified as HSP by the Board prior to January 1, 1998, and who remain in good standing.~~
- ~~(b) Requirements for this credential as of January 1, 1998, are:~~
 - ~~(1) Current, active licensure by the Board as a psychologist; and~~
 - ~~(2) Documentation submitted directly to the Board from the National Register of HSP in Psychology that the applicant is currently designated as an HSP with the National Register.~~
 - ~~(3) Active status as an HSP in psychology requires annual renewal and payment of an annual renewal fee. After one year, if the licensee fails to renew this specialty certification, it is void. To obtain specialty certification again, reapplication is required.~~

Rule: 463.27. Temporary License for Persons Licensed in Other States.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.27. Temporary License for Persons Licensed in Other States.~~

~~(a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose, such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas. To be eligible for temporary licensure, an applicant must:~~

~~(1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;~~

~~(2) pay the application fee;~~

~~(3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;~~

~~(4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;~~

~~(5) be supervised (sponsorship) by a psychologist licensed in this state; and~~

~~(6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.~~

~~(b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Board. An applicant need not~~

~~demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Board has reciprocity.~~

- ~~(c) — Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Board as compliance with and in lieu of subsection (a)(3) and (6) of this section.~~
- ~~(d) — For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.~~
- ~~(e) — Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.~~
- ~~(f) — A temporary licensee must submit written notification to the Board of the dates he or she intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Board.~~
- ~~(g) — Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Board rules.~~
- ~~(h) — An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Board.~~
- ~~(i) — A temporary license holder may not apply for another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.~~
- ~~(j) — A temporary license holder delivering psychological services while situated in this state, must display a copy of his or her temporary license, unless otherwise prohibited or it would be impractical to do so.~~

Rule: 463.28. Emergency Limited Temporary License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.28. Emergency Limited Temporary License.~~

~~(a) The Board may issue an emergency limited temporary license to practice psychology if:~~

~~(1) the Governor declares a disaster under §418.014 of the Government Code and issues a proclamation in accordance with §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

~~(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and~~

~~(3) the applicant meets the requirements set forth herein below.~~

~~(b) An emergency limited temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.~~

~~(c) An emergency limited temporary license issued pursuant to this rule is valid only for the practice of psychology within the disaster area designated by the governor.~~

~~(d) To be eligible for an emergency limited temporary license to practice psychology, an applicant must:~~

~~(1) submit an application on a board approved form;~~

~~(2) submit written verification that the applicant is actively licensed, certified, or registered as a psychologist, psychological associate, or specialist in school psychology and in good standing in another jurisdiction.~~

- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on your out-of-state psychology license(s).~~
- (f) ~~An emergency limited temporary license may be renewed for an additional thirty (30) day period if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board approved form on or before the license expiration date.~~
- (g) ~~An individual practicing under an emergency limited temporary license must:~~
 - (1) ~~display a copy of his or her emergency limited temporary license in a conspicuous location when delivering psychological services; or provide written notification of the license number and instructions on how to verify the status of a license when obtaining informed consent;~~
 - (2) ~~provide notification to the public in a manner consistent with Board rule §469.2 of this title (relating to Public Complaint Notification Statement), that complaints can be filed with the Board; and~~
 - (3) ~~comply with all other applicable board rules.~~
- (h) ~~There will be no fee associated with the application, issuance, or renewal of an emergency limited temporary license.~~

Rule: 463.29. Reciprocity Agreements with Other Jurisdictions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.29. Reciprocity Agreements with Other Jurisdictions. The Board may enter into reciprocal licensing agreements with other jurisdictions pursuant to §501.262 of the Psychologists' Licensing Act (the Act). In determining whether the requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the Act, for the granting of licensure by reciprocity, the Board will consider the following:~~

- ~~(1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;~~
- ~~(2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;~~
- ~~(3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and~~
- ~~(4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.~~

Rule: 463.30. Licensing for Military Service Members, Veterans and Spouses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.30. Licensing for Military Service Members, Veterans and Spouses.~~

~~(a) Military Service Members, Veterans and Spouses.~~

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~~(1) A license may be issued to a military service member, military veteran, or military spouse, as those terms are defined by Chapter 55, Occupations Code, provided that the following documentation is provided to the Board:~~

~~(A) if the applicant is a military spouse, proof of marriage to a military service member; and~~

~~(B) proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or~~

~~(C) proof that within the five years preceding the application date, the spouse held the license in Texas.~~

~~(2) An applicant applying for licensure under paragraph (1) of this subsection must provide documentation from all other jurisdictions in which the applicant is licensed that indicate that the applicant has received no disciplinary action from those jurisdictions regarding a mental health license.~~

~~(3) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license under this rule, other than paragraph (1)(B) and (C) of this subsection and the jurisprudence examination, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the Board's Applications Committee and consider the committee's~~

input and recommendations. In the event the Executive Director does not follow a recommendation of the Applications Committee, he or she must submit a written explanation to the Applications Committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has an unacceptable criminal history.

(4) — Alternative demonstrations of competency to meet the requirements for licensure. The following provisions provide alternative demonstrations of competency to the Board's licensing standards.

(A) — Licensed Specialist in School Psychology. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and evidence of the required coursework or National Association of School Psychologists certification, and passage of the National School Psychology Examination. All other requirements for licensure are still required.

(B) — Licensed Psychological Associate. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, 450 internship hours, and passage of the Examination for Professional Practice in Psychology (EPPP) at the Texas cut-off. All other requirements for licensure are still required.

(C) — Provisionally Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and passage of the EPPP at the Texas cut-off. All other requirements for licensure are still required.

(D) — Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: two years of supervised experience. All other requirements for licensure, including the requirements of this paragraph, are still required.

~~(5) — Determination of substantial equivalency for licensing requirements in another state. The applicant must provide to the Board proof that the state in which the applicant is licensed has standards for licensure that are substantially equivalent to the requirements of this Board for the applicable license type:~~

~~(A) — Licensed Specialist in School Psychology.~~

~~(i) — The completion of a training program in school psychology approved/accredited by the American Psychological Association or the National Association of School Psychologists or a master's degree in psychology with specific course work as set forth in Board rule §463.9 of this title (relating to Licensed Specialist in School Psychology); and~~

~~(ii) — Passage of the National School Psychology Examination.~~

~~(B) — Licensed Psychological Associate.~~

~~(i) — Graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;~~

~~_____ (ii) — Passage of the EPPP at the Texas cut-off score; and~~

~~(iii) — A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.~~

~~(C) — Provisionally Licensed Psychologist.~~

~~(i) — Doctoral degree in psychology; and~~

~~(ii) — Passage of the EPPP at the Texas cut-off score.~~

~~(D) — Licensed Psychologist.~~

~~(i) — Doctoral degree in psychology;~~

~~(ii) — Passage of the EPPP at the Texas cut-off score; and~~

~~(iii) — Two years or a minimum of 3,000 hours of supervised experience under a licensed psychologist.~~

~~(6) — Renewal of License Issued to Military Service Members, Veterans, and Spouses. A license issued pursuant to this rule shall remain active until the last day of the licensee's birth month following a period of one year from the date of issuance of the license, at which time it will be subject to all renewal requirements.~~

~~(b) — Applicants with Military Experience.~~

~~(1) — A military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:~~

~~(A) — Licensed Specialist in School Psychology. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: a practicum and 600 internship hours. All other requirements for licensure are still required.~~

~~(B) — Licensed Psychological Associate. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: 1,750 hours of supervised experience. All other requirements for licensure are still required.~~

~~(C) — Licensed Psychologist. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or a minimum of 1,750 hours of supervised experience. All other requirements for licensure are still required.~~

~~(2) — A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another~~

~~jurisdiction that has been restricted, or they have an unacceptable criminal history.~~

Rule: 463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.~~

~~(a) An individual who holds a mental health license, other than one issued by this Board, may not obtain the required practicum, internship, or supervised experience required for a license with this Board while practicing under that license. During the documented hours of the practicum, internship, or supervised experience, the individual may provide psychological services only under the authority of a qualified supervisor of the practicum, internship, or supervised experience.~~

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

Rule: 465.1. Definitions

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.1. Definitions. The following terms have the following meanings:~~

- ~~(1) "Adoption evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.151.~~
- ~~(2) "Child custody evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.101.~~
- ~~(3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third party with the goal of assisting or caring for that third party or answering a referral question through the use of forensic psychological services.~~
- ~~(4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.~~
- ~~(5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.~~
- ~~(6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, licensee concerning a current or potential legal case at the entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal~~

~~proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).~~

- ~~(7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.~~
- ~~(8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants to the Board, and any other individual whom the Board has the authority to discipline under these Rules.~~
- ~~(9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.~~
- ~~(10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.~~
- ~~(11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.~~
- ~~(12) "Professional standards" are determined by the Board through its rules, regulations, policies and any other sources adopted by the Board.~~

- (13) ~~"Provision of psychological services" means any use by a licensee of his or her education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, performing research, or teaching to an individual, group, or organization.~~
- (14) ~~"Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.~~
- (15) ~~"Recognized member of the clergy," as used in §501.004(a)(4) of the Act, means a member in good standing of and accountable to a denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, §501(c)(3).~~
- (16) ~~"Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.~~
- (17) ~~"Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.~~
- (18) ~~"Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.~~

(19) ~~"Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.~~

(20) ~~"Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.~~

Rule: 465.2. Supervision

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.2. Supervision~~

- ~~(a) Psychologists shall employ or utilize an individual to provide psychological services, in any setting not specifically exempt under §501.004(a)(1) of the Psychologists' Licensing Act (the Act), only if:~~
- ~~(1) The individual is licensed by this Board; or~~
 - ~~(2) The individual is specifically exempted from licensure requirements by §501.004(a)(2) of the Act, relating to provision of services as part of a supervised course of study by students, residents or interns pursuing a course of study in a recognized training institution or facility; or,~~
 - ~~(3) The individual is engaged in post-doctoral supervision for purposes of satisfying §501.252(b)(2) of the Act; or~~
 - ~~(4) The individual is completing supervised experience for purposes of satisfying §501.260(b)(3) of the Act, relating to Licensed Specialist in School Psychology; or~~
 - ~~(5) The individual is completing supervised experience for purposes of satisfying the requirements to become a licensed professional listed in §501.004(b) of the Act.~~
- ~~(b) Licensees who contract either individually or with a third-party contract provider to provide psychological services in settings where the Act does not apply pursuant to §501.004 of the Act ("exempt" settings) are not themselves exempt from the Act. In some cases, a licensee may have to follow state or federal guidelines or laws that conflict with Board rules. In those cases, the conflicting guidelines or laws supersede Board rules.~~

Rule: 465.3. Providers of Psychological Services.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.3. Providers of Psychological Services.~~

- ~~(a) Individuals Licensed in Another Profession. Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a Board licensee may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.~~
- ~~(b) Unlicensed, Non-Exempt Individuals. Psychologists may employ unlicensed, non-exempt individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:~~
 - ~~(1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;~~
 - ~~(2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and~~
 - ~~(3) Technical, educational, or other duties that are adjunctive to and incorporated into the provision of psychological services such as providing educational information or assisting a client's work with a computer, special equipment or special materials, provided that the duties do not require psychological education or involve the provision of psychological services or the services or activities of another licensed profession.~~

Rule: 465.4. Employment of Individuals Not Licensed With This Board.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.4. Employment of Individuals Not Licensed With This Board.~~

~~(a) Multiple Licensure.~~

~~(1) Multiple licenses regulated by the Board are treated as one for purposes of Board discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all Board issued licenses held by a licensee.~~

~~(2) Multiple licenses including those governed by other entities. Licensees offering services outside the practice of psychology must avoid confusing or misleading clients by clearly identifying the license(s) under which services are being delivered. If a licensee holds more than one active license under which the licensee provides such services as counseling and psychotherapy in addition to psychological services, the licensee must obtain documented informed consent showing that the patient understands which license governs which services delivered to the patient at all times.~~

~~(b) Practice of Psychology. The following activities are covered by the definition of the "provision of psychological services" in Board Rule §465.1(10). This list is not intended to be exhaustive, but includes examples of the activities that, when performed by a licensee, are subject to Board Rules:~~

~~(1) conducting or administering testing that requires the use of psychological education, training, knowledge, or skills;~~

~~(2) the provision of biofeedback when such provision involves the use of education, training, skills, or knowledge in psychology;~~

- (3) ~~projective techniques, including, but not limited to, Rorschach, Thematic Apperception Test, Roberts Apperception Test, Sentence Completion tests and Holtzman Ink Blot;~~
- (4) ~~career and vocational counseling;~~
- (5) ~~the practice of hypnosis and hypnotherapy for health care purposes;~~
- (6) ~~marriage and family counseling and therapy; and~~
- (7) ~~alcohol and substance abuse treatment.~~

Rule: 465.5. Rules of Practice.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.5. Rules of Practice.~~

~~(a) Public Statements and Advertisements. Licensees shall not authorize, use or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or because of what they omit concerning their own training, experience, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.~~

~~(b) Solicitation of Testimonials and/or Patients.~~

~~(1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.~~

~~(2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.~~

~~(c) Use of Titles.~~

~~(1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.~~

~~(2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.~~

~~(3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:~~

~~(A) the individual holds a doctorate in the area of specialization;~~

- ~~(B) the individual has undergone retraining under the American Psychological Association retraining guidelines of 1977 in the area of specialization;~~
 - ~~(C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;~~
 - ~~(D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and relevant applied experience, as well as proof that the title has been used for at least five years; or~~
 - ~~(E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.~~
- ~~(d) Assumed Names and Legal Entities. Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.~~

Rule: 465.6. Public Statements, Advertisements, and Specialty Titles

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.6. Public Statements, Advertisements, and Specialty Titles. Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.~~

Rule: 465.7. Display of License/Renewal Permit

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.7. Display of License/Renewal Permit. Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.~~

Rule: 465.8. Psychological Services Are Provided within a Defined Relationship

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

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

Rule: 465.9. Competency

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.9. Competency~~

- ~~(a) Licensees provide only services for which they have the education, skills, and training to perform competently.~~
- ~~(b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.~~
- ~~(c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.~~
- ~~(d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.~~
- ~~(e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.~~
- ~~(f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.~~
- ~~(g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.~~
- ~~(h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to a competent appropriate service provider.~~

- (i) ~~Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services only to the extent necessary to ensure that services are not denied. If ongoing services are provided, licensees must comply with subsection (d) of this section as soon as practicable or refer the patient as per subsection (h) of this section.~~
- (j) ~~Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with Board rule §465.21 of this title (relating to Termination of Services).~~

Rule: 465.10 Basis for Scientific and Professional Judgments

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

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

Rule: 465.11 Informed Consent

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.11. Informed Consent.~~

- ~~(a) Except in an inpatient setting where a general consent has been signed, licensees must obtain and document in writing informed consent concerning all services they intend to provide to the patient, client or other recipient(s) of the psychological services prior to initiating the services, using language that is reasonably understandable to the recipients unless consent is precluded by applicable federal or state law.~~
- ~~(b) Licensees provide appropriate information as needed during the course of the services about changes in the nature of the services to the patient client or other recipient(s) of the services using language that is reasonably understandable to the recipient to ensure informed consent.~~
- ~~(c) Licensees provide appropriate information as needed, during the course of the services to the patient client and other recipient(s) and afterward if requested, to explain the results and conclusions reached concerning the services using language that is reasonably understandable to the recipient(s).~~
- ~~(d) When a licensee agrees to provide services to a person, group or organization at the request of a third party, the licensee clarifies to all of the parties the nature of the relationship between the licensee and each party at the outset of the service and at any time during the services that the circumstances change. This clarification includes the role of the licensee with each party, the probable uses of the services and the results of the services, and all potential limits to the confidentiality between the recipient(s) of the services and the licensee.~~
- ~~(e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality,~~

~~expectations of each participant, and the access of each participant to records generated in the course of the services.~~

- ~~(f) At any time that a licensee knows or should know that he or she may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Board rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in Board rule §465.9(i) of this title (relating to Competency) that will prevent them from performing their work related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and/or referral to insure that the services are completed in a timely manner.~~
- ~~(g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.~~
- ~~(h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that he or she intends to provide to the patient, client, or other recipient(s) of the psychological services prior to initiating the services using language that is reasonably understandable to the recipient(s).~~

Rule: 465.12 Privacy and Confidentiality

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.12. Privacy and Confidentiality.~~

- ~~(a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.~~
- ~~(b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process described in Board rule §465.11 of this title (relating to Informed Consent/Describing Psychological Services).~~
- ~~(c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.~~
- ~~(d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient/client confidentiality.~~
- ~~(e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.~~
- ~~(f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity and/or records, must remove all identifying and confidential information relating to the second individual before releasing the records.~~
- ~~(g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licenses shall exclude information that could lead to the identification of the patient or client.~~

~~(h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.~~

~~(i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.~~

Rule: 465.13 Personal Problems, Conflicts, and Dual Relationships.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.13. Personal Problems, Conflicts, and Dual Relationships~~

~~(a) In General.~~

- ~~(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.~~
- ~~(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.~~
- ~~(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.~~
- ~~(4) Licensees refrain from entering into or must withdraw from any professional relationship that conflicts with their ability to comply with all Board rules applicable to other existing professional relationships.~~

~~(b) Dual Relationships.~~

- ~~(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.~~
- ~~(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other~~

~~relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.~~

- ~~(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.~~
- ~~(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.~~
- ~~(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.~~

Rule: 465.14 Misuse of Licensees Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.14. Misuse of Licensees Services~~

- ~~(a) Licensees decline to offer services when limitations or conditions are placed on their work by the patient, client, or third parties which could foreseeably cause the licensee to violate a Board rule.~~
- ~~(b) If licensees become aware of misuse or misrepresentation of their services or the results of their services, they take reasonable steps to correct or minimize the misuse or misrepresentation.~~

Rule: 465.15 Fees and Financial Arrangements

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.15. Fees and Financial Arrangements.~~

~~(a) General Requirements.~~

- ~~(1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.~~
- ~~(2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.~~
- ~~(3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.~~
- ~~(4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.~~

~~(b) Ethical and Legal Requirements.~~

- ~~(1) Licensees do not engage in fraudulent billing.~~
- ~~(2) Licensees do not misrepresent their fees.~~
- ~~(3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.~~
- ~~(4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.~~

- ~~(5) — A licensee does not participate in bartering if it is clinically contra-~~
~~indicated or if bartering has the potential to create an exploitative —~~
~~or harmful dual relationship.~~

Rule: 465.16. Evaluation, Assessment, Testing, and Reports

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.16. Evaluation, Assessment, Testing, and Reports.~~

~~(a) Scope and Purpose.~~

~~(1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.~~

~~(2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.~~

~~(b) Reliability and Validity.~~

~~(1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.~~

~~(2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.~~

~~(3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.~~

~~(4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.~~

~~(5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.~~

~~(c) — Limitations.~~

- ~~(1) — Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.~~
- ~~(2) — Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.~~
- ~~(3) — Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.~~
- ~~(4) — Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.~~
- ~~(5) — Licensees provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.~~
- ~~(6) — Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.~~

~~(d) — Test Security and Validity. Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test~~

Rule: 465.17. Therapy and Counseling

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.17. Therapy and Counseling.~~

~~(a) Imbalances of Power.~~

- ~~(1) Licensees who engage in therapy or counseling recognize the actual or perceived power or undue influence they hold over current and former patients and clients.~~
- ~~(2) Licensees are presumed to have power and influence over former therapy or counseling patients or clients.~~
- ~~(3) Licensees do not engage in sexual relationships with, employ, enter into business with or otherwise exploit any former patient or client over whom they have actual or perceived power or undue influence created through a therapeutic relationship.~~

~~(b) Treatment plans.~~

- ~~(1) Licensees create specific written treatment plans that include, at a minimum, agreed upon goals of the treatment, the techniques to be used, and the tentative duration of the treatment for any therapy or counseling that they provide.~~
- ~~(2) Licensees explain the treatment plan to all recipients of the therapy or counseling before commencing the services.~~
- ~~(3) Licensees alter and document the alteration in the treatment plan when clinically indicated.~~
- ~~(4) Licensees confer with and obtain consent from the patient, or client or other recipient(s) of services concerning significant alterations in the treatment plan in accordance with Board rule §465.11(b) of~~

~~this title (relating to Informed Consent/Describing Psychological Services).~~

Rule: 465.18. Forensic Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.18. Forensic Services.~~

~~(a) In General.~~

- ~~(1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Board rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.~~
- ~~(2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.~~
- ~~(3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.~~
- ~~(4) A licensee who provides forensic services must comply with all other applicable Board rules and state and federal law relating to the underlying areas of psychology relating to those services.~~
- ~~(5) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.~~
- ~~(6) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.~~

~~(b) — Limitation on Services.~~

- ~~(1) — A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and competency to render a professional opinion shall decline to render that opinion.~~
- ~~(2) — A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.~~
- ~~(3) — A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.~~
- ~~(4) — A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.~~
- ~~(5) — When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.~~

~~(c) — Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:~~

- ~~(1) — The nature of the anticipated services (procedures);~~
- ~~(2) — The specific purpose and scope of the evaluation;~~
- ~~(3) — The identity of the party who requested the psychologist's services;~~
- ~~(4) — The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;~~

- ~~(5) The type of information sought and the uses for information gathered;~~
- ~~(6) The people or entities to whom psychological records will be distributed;~~
- ~~(7) The approximate length of time required to produce any reports or written results;~~
- ~~(8) Applicable limits on confidentiality and access to psychological records;~~
- ~~(9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and~~
- ~~(10) The licensee's name as it appears in their professional file with the Board prior to initiating services.~~

~~(d) Certain Testimony Prohibited.~~

- ~~(1) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.~~
- ~~(2) In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.~~
- ~~(3) This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.~~

~~(e) Child Custody Evaluations.~~

- ~~(1) The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.~~
- ~~(2) The term "supervision" as used in this subsection shall have the meaning assigned by Tex. Fam. Code Ann. §107.101. However, the term shall not encompass the restrictions and requirements set forth in Board rule §465.2 of this title (relating to Supervision) nor~~

~~shall a licensee providing supervision under this subsection have supervisory responsibility under Board rule §465.2 of this title.~~

~~(3) Minimum Qualifications of Child Custody Evaluator.~~

~~(A) A licensee must be qualified to conduct a child custody evaluation pursuant to Tex. Fam. Code Ann. §107.104 before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under Tex. Fam. Code Ann. §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.~~

~~(B) Notwithstanding any other grounds for qualification, the Board has determined that a licensed psychologist is qualified to conduct child custody evaluations if the licensee:~~

~~(i) has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or~~

~~(ii) has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.~~

~~(C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.104, may nevertheless conduct a child custody evaluation if:~~

~~(i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.106. A licensee appointed under Tex. Fam. Code Ann. §107.106 must comply with the provisions of Subchapter D of the Texas Family Code and this rule;~~

~~(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015; or~~

~~(iii) the licensee was qualified to conduct a social study evaluation under former Tex. Fam. Code Ann. §107.0511(g). This subpart shall expire on August 31, 2017, at which time it shall have no further force and effect.~~

~~(D) If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.~~

~~(E) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.~~

~~(4) Disclosure of Conflicts and Bias:~~

~~(A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.107.~~

~~(B) Following any disclosure required by Tex. Fam. Code Ann. §107.107(c), a licensee must resign as child custody evaluator, unless:~~

~~(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or~~

~~(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.~~

~~(C) Except as authorized by Tex. Fam. Code Ann. §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.~~

~~(5) Elements of Child Custody Evaluation:~~

~~(A) Licensees shall comply with Tex. Fam. Code Ann. §§107.108, 107.109, and 107.1101 when conducting child custody evaluations.~~

~~(B) Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with Tex. Fam. Code Ann. §107.110.~~

~~(6) Communications and Recordkeeping of Child Custody Evaluator.~~

~~(A) Licensees shall comply with the requirements of Tex. Fam. Code Ann. §107.112 regarding:~~

~~(i) the disclosure of communications between evaluation participants;~~

~~(ii) the creation and retention of records relevant to the evaluation; and~~

~~(iii) access to evaluation records.~~

~~(B) Licensees conducting child custody evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.111, as well as any records obtained pursuant to Tex. Fam. Code Ann. §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.~~

~~(7) Evaluation Report.~~

~~(A) A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with Tex. Fam. Code Ann. §107.113.~~

~~(B) A licensee shall provide a copy of any report filed with the Court in accordance with Tex. Fam. Code Ann. §107.114.~~

~~(f) Adoption Evaluations.~~

~~(1) The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective. Licensees~~

~~conducting adoption evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.~~

~~(2) Minimum Qualifications of Adoption Evaluator.~~

~~(A) A licensee must be qualified to conduct an adoption evaluation pursuant to Tex. Fam. Code Ann. §107.154 before the licensee may conduct an evaluation.~~

~~(B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.~~

~~(C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.154, may nevertheless conduct an adoption evaluation if:~~

~~(i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.155. A licensee appointed under Tex. Fam. Code Ann. §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or~~

~~(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.~~

~~(3) Disclosure of Conflicts and Bias.~~

~~(A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.156.~~

~~(B) Following any disclosure required by Tex. Fam. Code Ann. §107.156(c), a licensee must resign as adoption evaluator, unless:~~

~~(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or~~

~~(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator~~

- (C) ~~Except as authorized by Tex. Fam. Code Ann. §107.156(e), licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.~~
- (4) ~~A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.~~
- (5) ~~Licensees shall comply with Tex. Fam. Code Ann. §§107.158, 107.159, and 107.160 when conducting adoption evaluations.~~
- (6) ~~Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.163. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by Tex. Fam. Code Ann. §107.163 will result in disciplinary action against a licensee.~~
- (g) ~~Duty to Report Complaints. Licensees must report any complaint filed against them with this Board that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Board. Only those complaints for which a licensee receives notice from the Board need to be reported.~~
- (h) ~~Parenting Facilitators.~~
- (1) ~~The title "parenting facilitator" is defined in the Texas Family Code, Title 5, Subtitle B, Chapter 153, Subchapter K, Parenting Plan, Parenting Coordinator, and Parenting Facilitator.~~
- (2) ~~The Board's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Board rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators. In the event of conflict between the Family Code and Board rules, the Family Code controls,~~

~~pursuant to Board rule §461.14 of this title (relating to Conflict between Laws and Board Rules).~~

- ~~(3) A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all other applicable Board rules and state and federal laws relating to the underlying areas of psychology relating to those services.~~
- ~~(4) Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.~~
- ~~(5) Parenting facilitators must comply with the Texas Family Code at §153.6061 as to duties and §153.6101 as to qualifications, and with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005.~~
- ~~(6) The following psychologist-parenting facilitator practice standards are set forth consistent with Texas Family Code §153.6101.~~
 - ~~(A) Parenting facilitators licensed by the Board shall comply with the standard of care applicable to the license to practice psychology in Texas.~~
 - ~~(B) Psychologist-parenting facilitators meet all requirements of Texas Family Code §153.6101, including active licensure to practice as a psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.~~

Rule: 465.20. Research

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.20. Research.~~

~~(a) Conducting Research.~~

~~(1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.~~

~~(2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.~~

~~(b) Research results.~~

~~(1) Psychologists do not fabricate data or falsify results in their publications.~~

~~(2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.~~

~~(3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.~~

~~(4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.~~

Rule: 465.21. Termination of Services

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.21. Termination of Services.~~

- ~~(a) Licensees do not abandon patients or clients.~~
- ~~(b) Withdrawal from a professional relationship in compliance with Board rules to avoid a prohibited dual relationship is not abandonment of a patient or client.~~
- ~~(c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.~~
- ~~(d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.~~
- ~~(e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.~~
- ~~(f) Termination of employment with agencies or organizations.~~
 - ~~(1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.~~
 - ~~(2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Board rules and applicable law.~~

- (3) ~~Licenseses who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.~~

~~(g) Termination of employment with public schools.~~

- (1) ~~A Licensed Specialist in School Psychology (LSSP) who is under contract as an employee of a public school to provide school psychological services must deliver to such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.~~
- (2) ~~A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.~~

Rule: 465.22. Psychological Records, Test Data and Test Materials

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.22. Psychological Records, Test Data and Test Materials.~~

~~(a) General Requirements.~~

- ~~(1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.~~
- ~~(2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.~~
- ~~(3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.~~
- ~~(4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.~~
- ~~(5) Records shall be maintained and stored in a way that permits review and duplication.~~
- ~~(6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.~~
- ~~(7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.~~

~~(b) Maintenance and Control of Records.~~

- ~~(1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.~~
- ~~(2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.~~
- ~~(3) Licensees shall make all reasonable efforts to protect against the misuse of any record.~~
- ~~(4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.~~
- ~~(5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.~~
- ~~(6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.~~

~~(c) Access to Records.~~

- ~~(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.~~
- ~~(2) Records may be maintained in any media that ensure confidentiality and durability.~~
- ~~(3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.~~
- ~~(4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.~~
- ~~(5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are~~

~~commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.~~

- ~~(6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Board rule and state and federal law.~~
- ~~(7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Board rules and state and federal law.~~
- ~~(8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.~~
- ~~(9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:~~
 - ~~(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or~~
 - ~~(B) inform the patient in writing that the information does not exist or cannot be found; or~~
 - ~~(C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.~~
- ~~(10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45~~

~~C.F.R. §164.501, maintained by the licensee concerning the patient.~~

~~(d) Retention of Records.~~

- ~~(1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.~~
- ~~(2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after termination of services with the patient, client or subject of evaluation, or three years after a patient or subject of evaluation reaches the age of majority, whichever is greater.~~
- ~~(3) All records shall be maintained in a manner which permits timely retrieval and production.~~

~~(e) Outdated Records.~~

- ~~(1) Licensees take reasonable steps when disclosing records to note information that is outdated.~~
- ~~(2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Board rules and state and federal laws.~~

Rule: 465.32. Disposition and Assumption of the Practice of a Mental Health Professional

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations

~~465.32. Disposition and Assumption of the Practice of a Mental Health Professional.~~

~~(a) In General.~~

~~(1) A licensee has the right to sell or otherwise dispose of his or her practice to another licensed psychologist.~~

~~(2) A licensee has the right to assume the practice of a licensee.~~

~~(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.~~

~~(b) Notice and Referral of Patients and Clients.~~

~~(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the referent unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.~~

~~(2) A licensee who assumes the practice of another mental health service provider may state his or her willingness to provide services to all patients or clients the licensee is competent to treat.~~

~~(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.~~

~~(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional~~

Rule: 465.33. Improper Sexual Conduct.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.33. Improper Sexual Conduct.~~

- ~~(a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.~~
- ~~(b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:~~
 - ~~(1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;~~
 - ~~(2) Making inappropriate comments about an individual's body;~~
 - ~~(3) Making sexually demeaning comments to an individual;~~
 - ~~(4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;~~
 - ~~(5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;~~
 - ~~(6) Requesting a date;~~
 - ~~(7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or~~

~~(8) — Kissing of a sexual nature.~~

~~(c) — A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:~~

~~(1) — Sexual intercourse;~~

~~(2) — Genital contact;~~

~~(3) — Oral to genital contact;~~

~~(4) — Genital to anal contact;~~

~~(5) — Oral to anal contact;~~

~~(6) — Touching breasts or genitals;~~

~~(7) — Encouraging another to masturbate in one's presence;~~

~~(8) — Masturbation in another's presence; or~~

~~(9) — Exposure of sexual organs, breasts or buttocks.~~

~~(d) — A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:~~

~~(1) — The length of the relationship;~~

~~(2) — The nature of the relationship; and~~

~~(3) — The frequency and type of interaction between the persons involved in the relationship.~~

~~(e) — A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or~~

~~siblings of former patients for at least two years after termination of services.~~

- ~~(f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.~~
- ~~(g) Psychologists do not accept as clients individuals with whom they have engaged in sexual relationships.~~

Rule: 465.34. Providing Mental Health Services to Those Served by Others

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive

Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.34. Providing Mental Health Services to Those Served by Others. Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensee shall consult with the other service providers after appropriate consent has been obtained.~~

Rule: 465.34. Resolution of Allegations of Board Rule Violations

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.34. Resolution of Allegations of Board Rule Violations.~~

- ~~(a) When a licensee believes that there may have been an ethical or Board rule violation by another licensee that does not involve harm or potential harm to any member of the public, the licensee may attempt to resolve the issue by bringing it to the attention of that individual if informal resolution would not violate any confidentiality rights that may be involved. Licensees shall report any unresolved rule violations to the Board.~~
- ~~(b) A licensee must report conduct by a licensee that appears to involve harm or the potential for harm to any individual, or a violation of Board rule, a state law or federal law.~~
- ~~(c) A licensee must cooperate with any investigation conducted by the Board, including providing all requested information to the Board's Enforcement Division for thorough investigation of the complaint. Disclosure of patient information in an investigation is authorized by §611.006(a)(1) and (2) of the Texas Health and Safety Code.~~

Rule: 465.37. Compliance with All Applicable Laws

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.37. Compliance with All Applicable Laws. Licensees comply with all applicable state and federal laws affecting the practice of psychology including, but not limited to:~~

~~(1) Texas Health and Safety Code, Chapter 611, Mental Health Record;~~

~~(2) Texas Family Code~~

~~(A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment;~~

~~(B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and~~

~~(C) Chapter 261, Duty to Report Child Abuse and Neglect;~~

~~(3) Texas Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;~~

- ~~(4) Texas Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;~~
- ~~(5) Texas Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;~~
- ~~(6) Texas Code of Criminal Procedure, Chapter 46B. Incompetency to Stand Trial, Art. 46B.025. Expert's Report and Art. 46B.026. Report Deadline; and Chapter 46C. Insanity Defense, Art 46C.105. Reports Submitted by Experts; and~~
- ~~(7) 18 United States Code §1347 Health Care Fraud.~~

Rule: 465.38. Psychological Services for Schools

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~465.38. Psychological Services for Schools.~~

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

~~(b) Scope of Practice.~~

~~(1) A Licensed Specialist in School Psychology (LSSP) means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and~~

behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

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

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

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

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

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

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

(A) LSSPs;

(B) Those individuals listed in Board rule §463.9(g) of this title (relating to Licensed Specialist in School Psychologists); and

- (C) ~~Individuals seeking to fulfill the licensing requirements of Board rule §463.8 of this title (relating to Licensed Psychological Associate), Board rule §463.10 of this title (relating to Provisionally Licensed Psychologists), or Board rule § 463.11 of this title (relating to Licensed Psychologist).~~
- (2) ~~Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this rule.~~
- (3) ~~An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) above.~~
- (f) ~~Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:~~

 - (1) ~~Texas Education Code;~~
 - (2) ~~Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;~~
 - (3) ~~Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;~~
 - (4) ~~Texas Public Information Act ("Open Records Act"), Texas Government Code, Chapter 552;~~
 - (5) ~~Section 504 of the Rehabilitation Act of 1973;~~
 - (6) ~~Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and~~
 - (7) ~~HIPAA when practicing in a private school.~~
- (g) ~~Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when~~

delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Board rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) or in a private school however, must obtain informed consent as otherwise required by the Board rules

Rule: 469.1. Timeliness of Complaints.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.1. Timeliness of Complaints.~~

- ~~(a) A complaint not involving a violation of Board rules §465.33 of this title (relating to Improper Sexual Conduct) or §465.22(d) of this title (relating to Psychological Records, Test Data and Test Protocols), will be considered timely if brought within five years of the date of the termination of professional services.~~
- ~~(b) A complaint alleging a violation of Board rules §465.33 of this title or 465.22(d) of this title, will be considered timely if brought within seven years after termination of services or within three years of the patient, a client or subject of evaluation reaching the age of majority, whichever is greater.~~
- ~~(c) A complaint arising out of disciplinary action taken against a licensee by any entity listed in Board rule 469.11(a)(4) of this title (relating to Legal Actions Reported and Reciprocal Discipline), will be considered timely if brought within five years of the date the disciplinary action is reported to the Board.~~
- ~~(d) Limitations shall not begin to run for any complaint arising out of a matter required to be reported under Board rule 469.11 of this title, until the matter is reported in accordance with that rule.~~

Rule: 469.2. Public Complaint Notification Statement.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.2. Public Complaint Notification Statement.~~

~~(a) Methods of Notification. The Board and its licensees shall provide notification to the public that complaints can be filed with the Board by publishing the Board's name, its mailing address, and telephone number by the following method:~~

~~(1) Displaying a sign in a prominent location on a wall in all rooms where psychological services are conducted in a position that is reasonably likely to be viewed by individuals occupying the room, on paper of no less than 8 1/2 inches by 11 inches in size, with the Board approved notification statement printed in black. Licensees providing psychological services through the internet shall display an image of the notification statement in a prominent and easily accessible location within the website. The Board approved notification statement must be printed in both English and Spanish.~~

~~(A) The Board approved English notification statement reads as follows: "Be it known that the Texas State Board of Examiners of Psychologists receives questions and complaints regarding the practice of psychology. For assistance please contact: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2 450, Austin, Texas 78701, (512) 305 7700, or 800 821 3205."~~

~~(B) The Board approved Spanish notification statement reads as follows: "Se desea informar que la Comisión Estatal Examinadora de Psicólogos de Texas recibe toda clase de consultas y quejas sobre el ejercicio profesional de la psicología en el Estado de Texas. Si usted necesita este servicio, comuníquese con: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2 450, Austin, Texas 78701, (512) 305 7700 o 800 821 3205."~~

~~(2) The Board-approved notification statement is provided to licensees at the time of licensure. Additional Board-approved notification statements may be obtained directly from the Board office at any time.~~

~~(b) In addition to the Board-approved notification sign, licensees may also notify consumers by the following methods:~~

~~(1) on each registration form, application, or written contract for services of a licensee; or~~

~~(2) in a bill for services provided by a licensee.~~

Rule: 469.3. Standardized Complaint Form.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.3. Standardized Complaint Form.~~

- ~~(a) All complaints filed against a licensee must be submitted to the Board on the Board-approved standardized complaint form. The Board-approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's web site.~~
- ~~(b) The Board shall make available to each person who wishes to file a complaint: the Board-approved complaint form, waiver form if appropriate, release of information forms, and the Rules and Regulations of the Board.~~
- ~~(c) The complaint form must be physically delivered to the Board office, mailed to the Board office, or faxed to the Board.~~

Rule: 469.4. Complaint Investigation.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.4. Complaint Investigation.~~

- ~~(a) The Board has established a priority rating system to distinguish between categories of complaints. The priority rating system is as follows:~~
 - ~~(1) cases involving imminent physical harm to the public;~~
 - ~~(2) cases involving sexual misconduct on the part of a licensee;~~
 - ~~(3) cases involving current applicants for licensure; and~~
 - ~~(4) cases involving other administrative violations of Board Rules or the Act.~~
- ~~(b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.~~
- ~~(c) A preliminary investigation shall be conducted to determine if the Board has jurisdiction over the complaint and to determine the nature of the allegations. The complainant will be provided the opportunity to explain the allegations made in the complaint.~~
- ~~(d) A review will be conducted after the preliminary investigation to determine if the complaint states an allegation which, if true, would constitute a violation of the Board's Act and rules.~~
- ~~(e) Complaints that do not state a violation of the Board's Act or rules shall be dismissed. If the complaint alleges a violation of another agency's Act or~~

~~rules, the complaint will be referred to the appropriate agency as required or allowed by law.~~

- ~~(f) Complaints that state a violation of the Board's Act and rules shall be investigated by an investigator assigned by the Manager of the Enforcement Division.~~
- ~~(g) Licensees will receive notice in writing and addressed to the party. Notice to a licensee is effective and service is complete when sent by certified or registered mail, return receipt requested, to the licensee's address of record at the time of the mailing.~~
- ~~(h) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation of the Board's Act and rules has occurred.~~
- ~~(i) The Enforcement Division Manager and the counsel for the Board shall review the investigation report, evidence and the case file of the complaint to determine if there is sufficient evidence to demonstrate a violation of the Board's Act, rules, or order to recommend probable cause to the Board.~~
- ~~(j) A complaint for which the staff determines probable cause shall be referred to a Disciplinary Review Panel of the Board for an informal conference. The Board shall serve the Respondent with a Notice of Violation and Informal Settlement Conference.~~
- ~~(k) A complaint for which the staff determines that probable cause does not exist shall be referred for dismissal.~~
- ~~(l) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.~~

Rule: 469.5. Complaint Disposition.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.5. Complaint Disposition.~~

- ~~(a) The Board will enter orders accepting resignations or assessing sanctions and dismiss complaints at regularly scheduled meetings.~~
- ~~(b) Notwithstanding subsection (a) of this section, the Executive Director may dismiss a complaint if the Executive Director, General Counsel, and Enforcement Manager agree that a violation did not occur or that the agency lacks jurisdiction over the complaint. However, the Executive Director may not dismiss a complaint if it has been reviewed by a Disciplinary Review Panel or the agency would be barred under Board rule §469.1 of this title (relating to Timeliness of Complaints) from reopening the complaint at the Board's next public meeting. At each public meeting of the Board, the Executive Director shall report to the Board each complaint dismissed since the Board's last public meeting, and the Board may then vote to reopen a complaint if it disagrees with the dismissal.~~
- ~~(c) Any person who files a complaint will be notified by letter of the dismissal of the complaint and the legal basis or reason for the dismissal.~~
- ~~(d) Notwithstanding subsection (a) of this section, the Executive Director is authorized to accept the voluntary resignation in lieu of adjudication of a license. Board ratification is not required. The Executive Director shall report the number of such resignations accepted, along with a brief summary of the basis for those resignations to the Board at its regular meetings.~~

Rule: 469.6. Temporary Suspension of a License.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.6. Temporary Suspension of a License.~~

- ~~(a) An executive committee of the Board, consisting of the Board Chair and two other Board members selected by the Board Chair, may temporarily suspend the license of a licensee under the Act without notice or hearing if the executive committee determines, based on evidence or information presented to the committee, that the continued practice by the licensee constitutes a continuing or imminent threat to the public welfare.~~
- ~~(b) A temporary suspension under subsection (a) of this section may also be ordered on a majority vote of the Board at a scheduled Board meeting.~~
- ~~(c) The effective date of the suspension will be either the date the executive committee votes to suspend the license, or the date that a majority of the Board votes to suspend the license.~~
- ~~(d) If a license is temporarily suspended under subsection (a) of this section without notice or hearing, a hearing to determine whether or not disciplinary proceedings under this Act should be initiated against the licensee must be scheduled to be held before the executive committee not later than the 14th day after the effective date of suspension. Following this hearing, if a determination is made that no disciplinary proceedings should be initiated, any temporary suspension ordered shall be immediately terminated.~~
- ~~(e) In the alternative, a license may be temporarily suspended by an executive committee following notice to the licensee and a hearing before the executive committee. An additional hearing within 14 days of the effective date of a temporary suspension entered pursuant to this subsection shall not be required, if the executive committee votes to temporarily suspend a license and determines that disciplinary proceedings under this Act should be initiated against the licensee.~~
- ~~(f) Upon the temporary suspension of a license under this section, a second hearing on the suspended license shall be held not later than the 60th day~~

~~after the effective date of the suspension, to determine whether the
temporary suspension should be continued pending a final disposition of
any disciplinary action against the licensee. This second hearing shall be
held before the State Office of Administrative Hearings in accordance
with Board Rules and the Act. If the second hearing is not held in the time
required by this rule, the suspended license is automatically reinstated,
unless the delay was caused by the licensee or the licensee's agent.~~

Rule: 469.7. Persons with Criminal Backgrounds.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.7. Persons with Criminal Backgrounds.~~

~~(a) The Board may revoke or suspend an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense directly relates to the performance of the activities of a licensee and the conviction directly affects such person's present fitness to perform as a licensee of this Board.~~

~~(b) Criminal History Evaluation Letters.~~

~~(1) In compliance with Chapter 53 of the Texas Occupations Code, the Board will provide criminal history evaluation letters.~~

~~(2) A person may request the Board to provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this Board and the person has reason to believe that the person is ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.~~

~~(3) The requestor must submit to the Board a completed Board application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions and resolution to the Board.~~

~~(4) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.~~

~~(5) The Board has the authority to investigate a request for a criminal history evaluation letter and may require that the requestor provide additional information about the convictions and other dispositions if requested by the Board.~~

~~(6) The Board will provide a written response to the requestor within 90 days of the Board's receipt of the request, unless a more extensive investigation is required or the requestor fails to comply with a Board investigation. The Board's evaluation letter will state the Board's determination on each ground for potential ineligibility presented by the requestor.~~

~~(7) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the Board at the time the letter is issued, the Board's ruling on the request determines the requestor's eligibility only with respect to the grounds for potential ineligibility set out in the letter.~~

~~(c) The Board shall revoke an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony conviction under Section 35A.02 of the Texas Penal Code, concerning Medicaid fraud.~~

~~(d) No person currently serving a sentence in a penal institution or correctional facility following a felony conviction is eligible to obtain or renew his/her license.~~

~~(e) In determining whether a criminal conviction directly relates to the performance of a licensee, the Board shall consider the factors listed in the Texas Occupations Code, Chapter 53.~~

~~(f) Those crimes which the Board considers as directly related to the performance of a licensee:~~

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

~~(2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;~~

~~(3) any criminal violation of the Psychologists' Licensing Act;~~

~~(4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;~~

~~(5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;~~

~~(6) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of~~

~~Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;~~

~~(7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;~~

~~(8) any offense involving the failure to report abuse;~~

~~(9) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;~~

~~(10) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);~~

~~(11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and~~

~~(12) any attempt, solicitation, or conspiracy to commit an offense listed herein.~~

~~(g) In determining whether a criminal conviction directly affects present fitness of the licensee, the Board shall consider the factors listed in Texas Occupations Code, §53.023.~~

~~(h) It shall be the responsibility of the licensee to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all criminal offenses.~~

~~(i) The licensee shall also furnish proof in such form as may be required by the Board that he/she maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines and restitution as may have been ordered in all criminal cases in which he/she has been convicted.~~

Rule: 469.8. Rehabilitation Guidelines.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.8. Rehabilitation Guidelines.~~

- ~~(a) In the event of revocation or suspension of a license due to non-compliance with the rules of the Board and/or its ethical principles, the Board, in its discretion, may implement a plan of rehabilitation. The plan shall outline the steps the person must follow in order to be considered for relicensure or removal of suspension. Completion of the plan may lead to consideration of submission of an application for relicensure; removal of suspension; or removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised, expanded, and/or continued depending upon the progress of the rehabilitation program. The licensee, before beginning the options outlined in subsection (b) of this section, must address any outstanding complaints.~~
- ~~(b) The Board may follow one or more options in devising a rehabilitation program:~~
 - ~~(1) The individual may be supervised for a specified length of time in all or selected areas of activities related to his/her practice as a licensee by a licensed psychologist approved by the Board.~~
 - ~~(A) The Board will specify the focus of the supervision.~~
 - ~~(B) The Board will specify the number of hours per week required in a face-to-face supervisory contract.~~
 - ~~(C) The supervisor will provide periodic and timely reports to the Board concerning the progress of the supervisee.~~
 - ~~(D) Any fees for supervision time will be the responsibility of the supervisee.~~
 - ~~(2) The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include but are not limited to workshops, seminars,~~

~~courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars which are not held in a setting of academic review (approved professional development) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan.~~

~~(3) The Board may require of the individual:~~

- ~~(A) psychodiagnostic evaluations by a psychologist approved by the Board;~~
- ~~(B) a physical examination including alcohol and drug screening by a physician approved by the Board;~~
- ~~(C) psychotherapy on a regular basis from a psychologist approved by the Board; or~~
- ~~(D) any other requirement that seems appropriate to the individual case.~~

~~(4) The Board may require the individual to:~~

- ~~(A) take or retake and pass the appropriate professional examination;~~
- ~~(B) take or retake and pass the Jurisprudence Examination; or~~
- ~~(C) complete any other requirement that seems appropriate to the individual case.~~

Rule: 469.9. Complaints Alleging Violations of Court Orders or Education Law.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.9. Complaints Alleging Violations of Court Orders or Education Law.~~

~~(a) No complaint will be processed against a licensee if such complaint is predicated upon a violation of a court order unless such complaint includes certified court documents which show that the court has decided that the licensee did violate the specific court order and the court's response to such violation.~~

~~(b) Complaints Involving Standard of Care Issues in Schools:~~

~~(1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.~~

~~(2) For purposes of this rule, the rule of limitations found in Board rule 469.1, of this title (relating to Timeliness of Complaints), shall not begin to run until all of the administrative remedies reference in subsection (b)(1) have been exhausted.~~

~~(3) Notwithstanding subsection (b)(1), an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by subsection (b)(1) regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations set forth in Board rule §469.1 of this title.~~

~~(4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in subsection (b)(1), nor shall it operate to limit the Board's ability to bring a complaint for any matter within the agency's jurisdiction.~~

Rule: 469.10. Rules of Evidence in Contested Cases.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.10. Rules of Evidence in Contested Cases. The rules of evidence described in the Administrative Procedure Act will be followed by the Board and its hearing officers. Considering that the Board commonly relies upon information presented to it in applications, written responses, and related documentation in the routine conduct of its affairs, including official decision making in the processing of applications for licensure, evidence of a similar type will be considered and may be relied upon by the Board and its hearing officers in the conduct of the Board's affairs involving official decision making in all matters relating to licensure, including disciplinary matters in contested cases.~~

Rule: 469.11. Legal Actions Reported and Reciprocal Discipline.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.11. Legal Actions Reported and Reciprocal Discipline.~~

~~(a) Licensees are required to report legal actions as follows:~~

- ~~(1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Board within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.~~
- ~~(2) Any lawsuit brought by or against a licensee concerning or related to the delivery of psychological services or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Board within thirty days of either filing by or service upon the licensee.~~
- ~~(3) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action as set forth in the Act at §501.401. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Board rules.~~
- ~~(4) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Board by sending notification of the action within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement his or her report to the Board with a copy of any order, letter, or determination setting forth the final~~

~~disposition of the matter within thirty days following the final disposition.~~

~~(b) Reciprocal Discipline:~~

- ~~(1) A complaint shall be opened upon receipt of a report of discipline against a licensee by another health licensing board in this state or any other jurisdiction.~~
- ~~(2) The disciplinary action imposed on a licensee who is disciplined by another health licensing board will be the discipline applicable to the same conduct or rule violation under Board rules.~~
- ~~(3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing board constitutes disciplinary action under this rule. A complaint shall be opened and the disciplinary action imposed will be the discipline applicable under Board rules to the alleged conduct as if proved.~~

Rule: 469.12. Suspension of License for Failure to Pay Child Support.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.12. Suspension of License for Failure to Pay Child Support.~~

- ~~(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive director shall immediately determine if the Board has issued a license to the obligor named on the order, and, if a license has been issued:
 - ~~(1) enter an order of suspension of the license;~~
 - ~~(2) report the suspension as appropriate; and~~
 - ~~(3) demand surrender of the suspended license.~~~~
- ~~(b) The Board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The Board will provide notice as appropriate to the licensee or to others concerned with the license.~~
- ~~(c) The Board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.~~
- ~~(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the Board.~~
- ~~(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.~~
- ~~(f) An individual who continues to engage in the practice of psychology or continues to use the titles "Licensed Psychologist," "Provisionally Licensed Psychologist," "Licensed Psychological Associate," "Licensed~~

~~Specialist in School Psychology" or the initials "L.P.," "P.L.P.," "L.P.A.," or "L.S.S.P." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the Board.~~

- ~~(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.~~
- ~~(h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in Board rule §473.3 of this title (relating to Annual Renewal Fees) prior to issuance of the license under subsection (g) of this section.~~
- ~~(i) In compliance with Chapter 232, Family Code, upon notice from a child support agency that a licensee has failed to pay child support for six months or more, and requests that the Board refuse to renew the license, the Board will not accept an application for renewal until it is notified by the child support agency that the licensee has met requirements set by law. The Board may charge the licensee a fee for such a denial of renewal.~~

Rule: 469.14. Monitoring of Licensees.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.14. Monitoring of Licensees.~~

- ~~(a) The Compliance Committee is responsible for monitoring licensees who are ordered by the Board to perform certain acts. The Compliance Committee ascertains that the licensee performs the required acts within the designated time period.~~
- ~~(b) The Compliance Committee is responsible for implementing the Board's preventative approach to enforcement of the Act and the Rules of the Board by identifying and monitoring licensees who represent a risk to the public.~~

Rule: 469.15. Disciplinary Action for Persons with Dual Licensure.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.15. Disciplinary Action for Persons with Dual Licensure. Disciplinary Action for Persons with Dual Licensure. A disciplinary action taken by the Board against a licensee is considered a disciplinary action against all licenses that the licensee holds with the Board.~~

Rule: 470.1 Objective and Scope

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.1 Objective and Scope. The objective of this chapter is to obtain a just, fair, and equitable determination of any matter within the jurisdiction of the Board. To the end that this objective may be attained with as great expedition and at the least expense as possible to the parties and the State, the provisions of this chapter shall be given a liberal construction. The provisions of this chapter govern the procedure for the institution, conduct, and determination of all proceedings before the Board. The provisions of the Administrative Procedure Act (APA), Government Code, Chapter 2001, govern where ambiguity or differences exist between the provisions of this chapter and APA.~~

Rule: 470.2 Definitions

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.2. Definitions. The following terms have the following meanings:~~

- ~~(1) Act The Psychologists' Licensing Act, Texas Occupations Code, Title 3, Subtitle I, Chapter 501.~~
- ~~(2) Administrative Law Judge (ALJ) An individual appointed by the Chief Administrative Law Judge of the State Office of Administrative Hearings (SOAH) under Government Code, Chapter 2003, §2003.041.~~
- ~~(3) Agency The Board and all divisions, departments and employees thereof.~~
- ~~(4) Administrative Procedure Act (APA) Government Code, Chapter 2001, as amended.~~
- ~~(5) Applicant A party seeking a license from the Board.~~
- ~~(6) Authorized representative An attorney authorized to practice law in the State of Texas or, if authorized by applicable law, a person designated by a party to represent the party.~~
- ~~(7) Board The nine-member Texas State Board of Examiners of Psychologists.~~
- ~~(8) Board member One of the members of the Board, appointed pursuant to the Act, §501.051, and qualified under the Act, §501.051, §501.052 and §501.053.~~
- ~~(9) Chair The chairperson of the Board.~~
- ~~(10) Complainant A party bringing a complaint under the Act.~~

- ~~(11) Complaint—An action over which the Board has jurisdiction filed against any individual who violates the Act and/or Rules of the Board.~~
- ~~(12) Contested case—A proceeding, including, but not restricted to licensing and disciplinary action in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing.~~
- ~~(13) Disciplinary Review Panel—Committee appointed by the Chair, including at least one public member, to conduct informal settlement conferences concerning disciplinary actions and to make recommendations to the Board.~~
- ~~(14) Executive Director—The executive director of the Board designated in accordance with the Act, §501.101.~~
- ~~(15) License—The whole or part of any agency permit, approval, registration, or similar form of permission required by law.~~
- ~~(16) Licensee—Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.~~
- ~~(17) Licensing—The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.~~
- ~~(18) Official act—Any act performed by the Board pursuant to a duty, right or responsibility imposed or granted by law.~~
- ~~(19) Party—Each person or agency named or admitted to participate as a party before the Board or the State Office of Administrative Hearings.~~
- ~~(20) Person—An individual, representative, corporation, or an agency or instrumentality of government.~~
- ~~(21) Pleading—A written document submitted by a party or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.~~

- ~~(22) Presiding officer—The chair, the acting chair of the Board, or a duly authorized administrative law judge while acting with respect to a hearing.~~
- ~~(23) Public health agency—The Board is a public health agency.~~
- ~~(24) Respondent—An individual over whom the Board has jurisdiction and against whom a complaint is filed.~~
- ~~(25) Rule—Any agency statement of general applicability that implements or prescribes law or policy by defining general standards of conduct, rights, or obligations of persons, or describes the procedure or practice requirements that prescribe the manner in which public business before an agency may be initiated, scheduled, or conducted, or interprets or clarifies law or agency policy, whether with or in the absence of an explicit grant of power to the agency to make rules. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures. This definition includes regulations.~~
- ~~(26) State Office of Administrative Hearings (SOAH)—The agency to which contested cases are referred by the Texas State Board of Examiners of Psychologists.~~
- ~~(27) Texas Public Information Act—Texas Government Code, Chapter 552.~~

Rule: 470.3 Construction

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.3. Construction.~~

- ~~(a) A provision of a section referring to the Board is construed to apply to the Board or the chair if the matter is within the jurisdiction of the Board.~~
- ~~(b) Unless otherwise provided by law, any duty imposed on the Board or chair may be delegated to a duly authorized representative. In such case, the provisions of any section referring to the Board or the chair shall be construed to also apply to the duly authorized representative or chair.~~

Rule: 470.4 Records of Official Action

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.4. Records of Official Action. All official acts of the Board shall be evidenced by a recorded or written record.~~

- ~~(1) The minutes of the Board shall constitute a written record. Such writings shall be open to the public in accordance with the Act and the Texas Open Records Act, Government Code Chapter 552. The Board may, in its discretion and in accordance with the open meetings law, Chapter 551, Government Code, conduct any portion of its meeting in executive session.~~
- ~~(2) The Board may in its discretion conduct deliberations relative to licensee disciplinary actions in executive session. At the conclusion of its deliberations relative to licensee disciplinary action, the board shall vote and announce its decision relative to the licensee in open session.~~
- ~~(3) Official action of the Board shall not be bound or prejudiced by any informal statement or opinion made by any member of the Board or the employees of the agency staff.~~

Rule: 470.5. Conduct and Decorum.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.5. Conduct and Decorum.~~

- ~~(a) Parties, authorized representatives, witnesses, and other participants in Board proceedings shall conduct themselves with proper dignity, courtesy, and respect for the Board, the executive director, the administrative law judge, and all other participants. Disorderly conduct will not be tolerated.~~
- ~~(b) All authorized representatives shall observe the standards of ethical conduct prescribed for their professions.~~
- ~~(c) The presiding officer may, at his or her discretion, exclude a violator of this rule from the proceeding for such period as is deemed just.~~
- ~~(d) Violation of rule 470.5 is grounds for imposition of Board disciplinary action.~~

Rule: 470.6. Agreement to be in Writing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.6. Agreement to be in Writing. Unless otherwise provided in these rules, no agreement between the parties or their authorized representatives regarding any contested case or other matter before the Board shall be enforced unless it is in writing, signed, and filed with the Board, or unless it is entered on the record at a hearing.~~

Rule: 470.8. Information Disposition of Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.8. Information Disposition of Complaints.~~

~~(a) Complaints.~~

- ~~(1) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal in accordance with §2001.056 of the Administrative Procedure Act.~~
- ~~(2) Prior to the imposition of disciplinary sanction(s) against a license, the licensee shall be offered an opportunity to attend an informal conference and show compliance with all requirements of law, in accordance with §2001.054(c) of the Administrative Procedure Act.~~
- ~~(3) Informal conferences shall be conducted by the Chair of the Disciplinary Review Panel. The conference shall also be attended by the designated representative, legal counsel of the agency or an attorney employed by the office of the attorney general, and other representative(s) of the agency as the executive director and legal counsel may deem necessary for proper conduct of the conference. The licensee and/or the licensee's authorized representative(s) may attend the informal conference and shall be provided an opportunity to be heard and to present witnesses, affidavits, letters, reports, and any information deemed relevant for the Board's consideration in the matter. The licensee's attendance and participation is voluntary.~~
- ~~(4) In any case where charges are based upon information provided by a person (complainant) who filed a complaint with the Board, the complainant may attend the informal conference. A complainant who chooses to attend an informal conference shall be provided an opportunity to be heard, at a time separate from the respondent, with regard to violations based upon the information provided by~~

~~the complainant. Nothing herein requires a complainant to attend an informal conference.~~

~~(5) Informal conferences shall not be deemed meetings of the Board and no formal record of the proceedings at such conferences shall be made or maintained. Any informal record of conferences shall be made by mechanical or electronic means at the discretion of the Committee Chair.~~

~~(6) Any proposed consent order shall be presented to the Board for its review. At the conclusion of its review, the Board shall approve or disapprove the proposed consent order. Should the Board approve the proposed consent order, the appropriate notation shall be made in the minutes of the Board; and the proposed consent order shall be entered as an official action of the Board. Should no agreement be entered into, the Board may refer the matter to SOAH for a formal hearing.~~

~~(b) Confidentiality of Informal Settlement Conferences. The Panel may take any and all steps necessary to ensure the confidentiality of the informal settlement conference in accordance with §501.205 of the Act, including, but not limited to, conducting the entirety of the conference in executive session.~~

Rule: 470.9. Witness Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.9. Witness Fees. Persons appearing as witnesses before the Board in an administrative hearing process (i.e., depositions, hearings, meetings, etc.) will receive reimbursement for expenses incurred. These expenses include travel, lodging, and up to \$40 per day for meals and other expenses. Airfare is reimbursed at the lowest available fare.~~

Rule: 470.10. Subpoenas

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.10. Subpoenas. On its own motion or, on the written request of any party to a contested case pending before it, for good cause shown and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under Administrative Procedure Act, Tex. Gov't Code Ann. §2001.103 (relating to expenses of witness or deponent), the agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purpose of a proceeding.~~

Rule: 470.11. Service in Non-Rulemaking Proceedings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.11. Service in Non Rulemaking Proceedings. Where service of notice by the agency is required, all parties shall be notified either personally, by first class mail, or by certified mail, return receipt requested, to the party's last known mailing address as shown in Board records. If any party has appeared by attorney or other representative, service shall be made by the methods above upon such attorney or representative.~~

Rule: 470.12. Contested Cases Referred to the State Office of Administrative Hearings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.12. Contested Cases Referred to the State Office of Administrative Hearings. Unless otherwise provided by statute, contested cases referred by the Board to the State Office of Administrative Hearings pursuant to the Administrative Procedure Act (APA), Texas Government Code, Chapter 2001, will be governed by the rules of practice and procedure in accordance with Title 1, Chapter 155 of the Texas Administrative Code and applicable sections of the APA.~~

Rule: 470.15. Proposal for Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.15. Proposal for Decision.~~

- ~~(a) In a contested case, upon completion of the hearing before SOAH, the ALJ shall prepare a proposal for decision to the agency and serve a copy of the proposal for decision upon each party. The Board may request that the proposal for decision be presented to the board by the ALJ at the next scheduled Board meeting.~~
- ~~(b) A proposal for decision shall contain a statement by the ALJ of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.~~
- ~~(c) Upon issuance of a proposal for decision by an ALJ in a contested case, any party may file written exceptions to the proposal for decision within fifteen (15) days after its issuance. Within fifteen (15) days after a party files written exceptions under this section, any other party may file a written reply.~~
- ~~(d) A proposal for decision may be amended by the ALJ in response to exceptions, replies and/or briefs submitted by the parties without again being served on the parties.~~

Rule: 470.16. Final Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.16. Final Decision.~~

- ~~(a) Any final decision or order adverse to a party in a contested case shall be in writing.~~
- ~~(b) A final decision shall include findings of fact and conclusions of law, separately stated.~~
- ~~(c) A party in a contested case shall be notified either personally or by first class mail of any decision or order.~~
- ~~(d) When the Board issues a final decision or order ruling on a motion for rehearing, the agency shall send a copy of that final decision or order by first class mail to the attorney of record and to the represented party. The agency shall keep an appropriate record of the mailing.~~
- ~~(e) A party or attorney of record notified by mail of a final decision or order as required by this subsection shall be presumed to have been notified on the date such notice is mailed.~~
- ~~(f) A decision in a contested case is final:~~
 - ~~(1) if a motion for hearing is not filed on time, on the expiration of the period for filing a motion for rehearing;~~
 - ~~(2) if a motion for rehearing is filed on time, on the date:~~
 - ~~(A) the order overruling the motion for rehearing is rendered;~~
 - ~~or~~
 - ~~(B) the motion is overruled by operation of law;~~
 - ~~(3) if the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision is rendered; or~~

- ~~(4) — on the date specified in the order for a case in which all parties —
agree on the specified date in writing or on the record, if the —
specified date is not before the date the order is signed or later than
the 20th day after the date the order was rendered.~~
- ~~(g) — If a decision or order is final under subsection (f)(3), the Board shall recite
in the decision or order the finding made under Subsection (f)(3) and the —
fact that the decision or order is final and effective on the date rendered.~~
- ~~(h) — As the Board has been created by the legislature to protect the public —
interest as an independent agency of the executive branch of the —
government of the State of Texas so as to remain the primary means of —
licensing and regulating the practice of psychology consistent with federal
and state law and to ensure that sound principles of psychology govern the
decisions of the Board, the Board may, in accordance with §2001.058 of —
the APA, change a finding of fact or conclusion of law or to vacate or —
modify the proposed order of an ALJ, if the Board determines:~~

 - ~~(1) — that the administrative law judge did not properly apply or interpret
applicable law, agency rules, written policies provided under —
§2001.058(c), or prior administrative decisions;~~
 - ~~(2) — that a prior administrative decision on which the administrative —
law judge relied is incorrect or should be changed; or~~
 - ~~(3) — that a technical error in a finding of fact should be changed.~~
- ~~(i) — If the Board modifies, amends or changes the ALJ's proposal for decision,
an order shall be prepared reflecting the Board's changes as stated in the —
record.~~

Rule: 470.17. Motion for Rehearing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.17. Motion for Rehearing.~~

- ~~(a) A motion for rehearing is a prerequisite to appeal from a Board's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~
- ~~(b) The Executive Director is authorized to grant or deny, at his or her own discretion, requests to extend the deadline for filing a motion for rehearing in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~
- ~~(c) In the event of an extension, the motion for rehearing may be overruled by operation of law in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~

Rule: 470.18. The Record.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.18. The Record. The record in a contested case includes:~~

- ~~(1) each pleading, motion, and intermediate ruling;~~
- ~~(2) evidence received or considered by the Board;~~
- ~~(3) a statement of matters officially noticed;~~
- ~~(4) questions and offers of proof, objections, and rulings on them;~~
- ~~(5) proposed findings of fact and conclusions of law, as well as exceptions thereto;~~
- ~~(6) each decision, opinion, or report made by the administrative law judge; and~~
- ~~(7) all staff memoranda or data submitted to or considered by the administrative law judge or Board decision makers.~~

Rule: 470.19. Cost of Appeal.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.19. Cost of Appeal. A party appealing a final decision of the Board in a contested case may be ordered by the Board to pay all or a part of the cost of preparation of the original or a certified copy of the record of the proceeding that is required to be transmitted to the reviewing Court.~~

Rule: 470.20. Computation of Time.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.20. Computation of Time. In computing time periods prescribed by these rules, or by order of the agency, the day of the act, event or default on which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which case the time period will end on the next day that the agency is open.~~

Rule: 470.21. Disciplinary Guidelines.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.21. Disciplinary Guidelines.~~

~~(a) Purpose. The Purpose of the guidelines is to:~~

- ~~(1) Provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters;~~
- ~~(2) Promote consistency in the exercise of sound discretion by the Board in the imposition of sanctions in disciplinary matters; and~~
- ~~(3) Provide guidance for the resolution of potentially contested matters.~~

~~(b) Limitations. The Board shall render the final decision in a contested case and has the responsibility to assess sanctions against licensees who are found to have violated the Act. The Board welcomes recommendations of administrative law judges as to the sanctions to be imposed, but the Board is not bound by such recommendations. A sanction should be consistent with sanctions imposed in other similar cases and should reflect the Board's determination of the seriousness of the violation and the sanction required to deter future violations. A determination of the appropriate sanction is reserved to the Board. The appropriate sanction is not a proper finding of fact or conclusion of law. This chapter shall be construed and applied so as to preserve the Board's discretion in the imposition of sanctions and remedial measures pursuant to the Act's provisions related to methods of discipline and administrative penalties. This chapter shall be further construed and applied so as to be consistent with the Act, and shall be limited to the extent as otherwise proscribed by statute and Board rule.~~

~~(c) The Board's rules concerning disciplinary guidelines, schedule of sanctions, and aggravating and mitigating circumstances are not intended to be exhaustive. The Board may recommend revocation for licensees who violate one or more Board rules.~~

(d) ~~Disciplinary Sanctions. If the Board does not revoke a license in connection with a disciplinary matter, it may impose the following disciplinary sanctions which are listed in descending order of severity:~~

- ~~(1) Suspension for a definite period of time;~~
- ~~(2) Suspension plus probation of any or all of the suspension period;~~
- ~~(3) Probation of the license for a definite period of time;~~
- ~~(4) Reprimand; and~~
- ~~(5) Administrative penalty.~~

(e) ~~Additional conditions. As terms of any sanction imposed by the Board upon a licensee pursuant to a disciplinary matter the Board may, at its discretion, impose any additional conditions and/or restrictions upon the license of the licensee that the Board deems necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:~~

- ~~(1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed psychologist approved by the Board;~~
- ~~(2) Restrictions on the licensee's ability to provide certain types of psychological services or to provide psychological services to certain classes of patients;~~
- ~~(3) Restrictions on the licensee's supervision of others in the practice of psychology;~~
- ~~(4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Board in addition to any minimum number required of all licensees as a condition of licensure;~~
- ~~(5) Taking and passing with the minimum required score of any examination required by the Board of a licensee;~~
- ~~(6) Undergoing a psychological and/or medical evaluation by a qualified professional approved in advance by the Board and undergoing any treatment recommended pursuant to the evaluation;~~
- ~~(7) Writing a research paper on a specific topic;~~

~~(8) Any other condition reasonably related to the rehabilitation and education of the licensee.~~

~~(f) The length of the sanction period shall be determined by the Board taking into account the time reasonably required to complete the required terms and conditions set forth in the order imposing the sanction.~~

Rule: 470.22. Schedule of Sanctions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.22. Schedule of Sanctions.~~

~~(a) These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Psychologists' Licensing Act and Board Rules of conduct. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.~~

~~(1) Single Violation. The standard sanctions outlined below shall apply to cases involving a single violation of the Act, and in which there are no aggravating or mitigating factors that apply.~~

~~(2) Multiple Violations. The board may impose more restrictive sanctions when there are multiple violations of the Act.~~

~~(3) Aggravating and Mitigating Factors. The Board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §470.23 of this chapter (relating to Aggravating and Mitigating Circumstances) that are found to apply in a particular case.~~

~~(4) The standard and minimum sanctions outlined below are applicable to first time violators. The Board shall consider more severe sanctions if the person is a repeat offender.~~

~~(5) The maximum sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to \$1,000 per violation. In accordance with §501.452 of the Act, each day the violation continues is a separate violation.~~

~~(6) Each violation constitutes a separate offense, even if arising out of a single act.~~

~~(7) Failure to list a type of violation or Board Rule in this rule does not prevent the Board from taking disciplinary action for such a violation.~~

~~(8) If a sanction for a violation of Board Rules is not listed in this rule, or specifically stated elsewhere in laws, the default sanction shall be a reprimand.~~

~~(9) Notwithstanding paragraph (8) of this subsection, the Board will evaluate and determine, on a case-by-case basis, the appropriate sanction for an individual with a qualifying conviction under §501.401(2) of the Act, as well as for an individual found to be incompetent under §501.158 of the Act.~~

~~(b) The following standard sanctions shall apply to violations of the Act and Rules.~~

Rule: 470.23. Aggravating and Mitigating Circumstances.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.23. Aggravating and Mitigating Circumstances.~~

~~(a) Aggravating Circumstances. Aggravating circumstances are those which may increase the severity of a rule violation, justifying the imposition of a more severe penalty. Such circumstances include but are not limited to the following:~~

~~(1) Patient harm and the type and severity thereof;~~

~~(2) Economic harm to any individual or entity and the severity thereof;~~

~~(3) Increased potential for harm to the public;~~

~~(4) Attempted concealment of misconduct;~~

~~(5) Premeditated conduct;~~

~~(6) Intentional misconduct;~~

~~(7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice of psychology;~~

~~(8) Prior misconduct of a similar or related nature;~~

~~(9) Disciplinary history;~~

~~(10) Likelihood of future misconduct of a similar nature;~~

~~(11) Violation of a Board order;~~

~~(12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;~~

~~(13) Lack of rehabilitative potential;~~

~~(14) — Motive and intent; and~~

~~(15) — Any relevant circumstances or facts increasing the level of violation.~~

~~(b) — Mitigating Circumstances. Mitigating circumstances are those which may reduce the severity of a less severe penalty. Such circumstances include the absence of aggravating circumstances listed above as and the presence of one or more of the following:~~

~~(1) — Acceptance of responsibility;~~

~~(2) — Self reported rule violations;~~

~~(3) — Implementation of remedial measures to correct or mitigate harm arising from the misconduct;~~

~~(4) — Motive;~~

~~(5) — Rehabilitative potential;~~

~~(6) — Prior community service;~~

~~(7) — Relevant facts and circumstances reducing the seriousness of the violation; and~~

~~(8) — Relevant facts and circumstances lessening responsibility for the violation.~~

Rule: 470.24. Enforcement of Orders, Decisions, and Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.24. Enforcement of Orders, Decisions, and Rules.~~

~~(a) When it appears to the Board that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, the agency may request that the attorney general bring an action in a district court in Travis County, Texas to exercise judicial review of the final order or decision or the rule, to~~

~~(1) enjoin or restrain the continuation or commencement of the violation, or~~

~~(2) compel compliance with the final order or decision or the rule.~~

~~(b) The action authorized by this rule is in addition to any other remedy provided by law.~~

REPEAL CHAPTER 471 RENEWALS

Rule: 471.1. Renewal of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.1. Renewal of a License.~~

- ~~(a) All licenses issued by the Board shall be subject to annual renewal through August 31, 2019. Effective September 1, 2019, all licenses issued by this agency are renewable on a biennial basis and must be renewed online.~~
- ~~(b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.~~
- ~~(c) Licensees must pay all applicable renewal and late fees, indicate compliance with the professional development requirements set out in Board rule §461.11 of this title (relating to Professional Development), provide a standardized set of information about their training and practices or update this information prior to renewal, and comply with any other requirements set out in agency renewal forms as a prerequisite for renewal of a license. Licensed psychologists must also update their online profile information when renewing their license. A license may not be renewed until a licensee has complied with the requirements of this rule.~~
- ~~(d) A licensee who falsely reports compliance with Board rule §461.11 of this title on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.~~
- ~~(e) Licensees will be sent notification of their approaching renewal date at least 30, but not more than 90 days before their renewal date. This notification will be sent to the licensee's address of record via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Board shall not operate to excuse a licensee's failure to timely renew a license. Licensees who do not timely renew their license will be sent a second notice informing them that their license has become delinquent. The second notice will be sent to the licensee's address of record via certified or register mail. Failure of a licensee to receive the~~

~~second notification shall not operate to excuse the failure to timely renew a license or any unlawful practice with a delinquent license.~~

- ~~(f) Notwithstanding subsection (a) of this section, effective September 1, 2019 one half of the individuals licensed by this agency will be selected and required to renew their license(s) on a one-time basis for one year, after which their renewal period will be automatically converted to the biennial renewal period. The renewal fee for a license renewed under this subsection shall be one half of the biennial renewal fee for the particular license, together with the appropriate Office of Patient Protection and Texas.gov subscription fees. The professional development requirements for a license renewed under this paragraph shall also be reduced to one-half of the professional development requirements under Board rule §461.11 of this title.~~

Rule: 471.3. Initial License Renewal Dates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.3. Initial License Renewal Dates~~

- ~~(a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.~~
- ~~(b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:
 - ~~(1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.~~
 - ~~(2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.~~~~
- ~~(c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.~~
- ~~(d) Notwithstanding subsection (b) of this section, for individuals with more than one license, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.~~

Rule: 471.4. Nonrenewal for Default of Guaranteed Student Loan.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.4. Nonrenewal for Default of Guaranteed Student Loan.~~

- ~~(a) The Board will not renew the license of a licensee identified by the Texas Guaranteed Student Loan Corporation as a person in default on a guaranteed student loan or repayment agreement, unless the licensee presents the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~
- ~~(b) Prior to the nonrenewal of any license under this rule, a licensee shall be notified that the Texas Guaranteed Student Loan Corporation has identified the licensee as being in default on a guaranteed student loan or repayment agreement. If the licensee then submits a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement, the licensee will be permitted to renew their license. Alternatively, the licensee may submit a written request to the Board for a hearing at which the licensee may present the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement. The Board must receive the request for a hearing on or before the 30th day following the date of the notice sent to the licensee. If a timely request is made, the Board shall conduct a hearing at the next available board meeting. If a timely request is not made, no hearing will be held and the licensee's license will not be renewed unless prior to their renewal date, the licensee provides the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~

Rule: 471.5. Updated Information Requirements.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.5. Updated Information Requirements. Each licensee shall provide the following information when renewing his/her license each year:~~

- ~~(1) Any of those matters which the licensee is required to report under Board rule §469.11 of this title (relating to Legal Actions Reported and Reciprocal Discipline.~~
- ~~(2) The names of all jurisdictions where the licensee currently holds a license to practice psychology;~~
- ~~(3) If the licensee has complied with the annual requirements for professional development;~~
- ~~(4) If the licensee has a guaranteed student loan in default; and~~
- ~~(5) If the licensee is currently in default of any court-ordered child support.~~

Rule: 471.6. Renewal Terms Exclusive to Licensees on Active Military Duty.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.6. ——— Renewal Terms Exclusive to Licensees on Active Military Duty.~~

- ~~(a) ——— Licensees serving on active duty, as defined by Tex. Occ. Code Ann. §55.001, may request a waiver from the professional development requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Board prior to their renewal date each renewal period, and provide the Board with official verification of active duty status during their renewal period, will be granted a waiver from the professional development requirements and renewal fees associated with the renewal of their license for that renewal period.~~
- ~~(b) ——— Licensees with an expired or delinquent license may request their license be reinstated or returned to active status if they would have been eligible for a waiver under subsection (a) of this section prior to their license expiring or becoming delinquent. Licensees seeking relief under this subsection must do so within two years of their license becoming delinquent.~~

REPEAL CHAPTER 473 Fees

Rule: 473.1. Application Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.1. Application Fees.~~

~~(a) Application Fees for Original or Initial Applications for Licensure:~~

~~(1) Licensed Psychological Associate: \$300~~

~~(2) Provisionally Licensed Psychologist: \$445~~

~~(3) Licensed Psychologist: \$381~~

~~(4) Licensed Specialist in School Psychology: \$275~~

~~(b) Application Fee for Reinstatement of a License—\$200~~

~~(c) In addition to the application fees set forth above, applicants must also pay a \$5 Office of Patient Protection fee for each application submitted.~~

~~(d) Application fees are nonrefundable and cannot be waived except as otherwise stated herein.~~

~~(e) All license application fees payable to the Board are waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has~~

~~licensing requirements that are substantially equivalent to the
requirements of this state.~~

Rule: 473.2. Examination Fees (Non-Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.2. Examination Fees (Non-Refundable):~~

~~(a) Generally Applicable Examination Fees:~~

~~(1) Examination for the Professional Practice of Psychology—\$600~~

~~(2) Jurisprudence Examination—\$234. A portion of this fee, \$34, goes to the third party vendor that administers the examination on behalf of the Board.~~

~~(b) The portion of the Jurisprudence Examination fee attributable to the Board, shall be waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.~~

Rule: 473.3. Biennial Renewal Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.3. Biennial Renewal Fees (Not Refundable)~~

~~(a) Biennial License Renewal Fees:~~

~~(1) Licensed Psychological Associate: \$230;~~

~~(2) Provisionally Licensed Psychologist: \$220;~~

~~(3) Licensed Psychologist: \$412; and~~

~~(4) Licensed Specialist in School Psychology: \$120.~~

~~(b) Notwithstanding subsection (a) of this section, the license renewal fee is \$20 for an individual 70 years of age or older, regardless of the type of license held.~~

~~(c) The renewal fee for the Psychologist Health Service Provider status issued by this agency is \$40.~~

~~(d) In addition to the renewal fees set forth above, licensees must also pay the following fees in connection with the renewal of a license:~~

~~(1) A \$1 Office of Patient Protection fee for each year in the renewal period; and~~

~~(2) A Texas.gov subscription fee for each year in the renewal period in the following amount(s):~~

~~(A) \$5 per license for psychologists;~~

~~(B) \$3 per license for provisionally licensed psychologists and licensed psychological associates; and~~

~~(C) \$2 per license for licensed specialist in school psychology.~~

~~(e) — Notwithstanding subsection (d) of this section, licensees 70 years of age and older must pay a \$2 Texas.gov subscription fee per license, regardless of the license type.~~

Rule: 473.4. Late Fees for Renewals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.4. Late Fees for Renewals.~~

- ~~(a) For a license expired ninety days or less, a licensee must pay a late fee in an amount equal to one and one-half times the required renewal fee.~~
- ~~(b) For a license expired more than ninety days but less than one year, a licensee must pay a late fee in an amount equal to two times the required renewal fee.~~
- ~~(c) Late renewal fees are nonrefundable and cannot be waived.~~

Rule: 473.5. Miscellaneous Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.5. Miscellaneous Fees (Not Refundable).~~

~~(a) Duplicate or Replacement Calligraphy License \$25.~~

~~(b) Inactive Status \$100.~~

~~(c) Remailing of License \$10.~~

~~(d) Returned Check Fee \$25.~~

~~(e) Analysis of Jurisprudence Examination \$50.~~

~~(f) Cost of Duplicate or Replacement annual renewal permit \$10.~~

~~(g) Limited Temporary License \$100.~~

~~(h) Preliminary Evaluation of Eligibility for Licensure of Person with Criminal Record \$150.~~

~~(i) Written Verification of License:~~

~~(1) Without State Seal \$30~~

~~(2) With State Seal \$50~~

~~(j) Mailing List \$100.~~

Rule: 473.8. Open Records Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.8. Open Records Fees. In accordance with Texas Government Code §552.262, the Board adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Texas Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).~~

STATUS REPORT

August 2020 Board Meeting

	3Q FY20 Mar 1, 2020 to May 31, 2020	2Q FY20 Dec 1, 2019 to Feb 29, 2020	1Q FY20 Sep 1, 2019 to Nov 30, 2019	4Q FY19 Jun 1, 2019 to Aug 31, 2019
Number of Pending Complaints	98	121	132	124
Number of New Complaints Received	30	21	39	24
Pending Imminent harm cases	0	0	0	0
Pending cases alleging Sexual Violations	6	3	4	1
Pending Applicant cases	0	1	3	3
Cases Resolved this Quarter (48 dismissals, 8 sanctions)	56	37	30	26
Cases dismissed by Staff	45	32	26	19
Cases dismissed by the Board	3	1	3	1
Cases reviewed at ISC this Quarter	6	6	6	6

TOTAL PENDING CASES

	3Q FY20 (as of 05/31/2020)	2Q FY20 (as of 2/29/20)	1Q FY20 (as of 11/30/19)	4Q FY19 (as of 8/31/19)
2017	0	0	0	1
2018	0	8	21	37
2019	35	62	72	86
2020	63	51	39	0
4 going to SOAH				
Total	98	121	132	124

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PROJECTED TIME SCHEDULE CHANGES

***Board Meeting
August 13, 2020***

The following is a list of complaint numbers that have received Projected Time Schedule (PTS) Changes since the previous Board meeting.

Changed Projected Time Schedule letters sent to the following cases

1. 19-107-13451 (under investigation)
2. 19-113-10750 (under investigation)
3. 19-114-3057 (under investigation)
4. 19-121-3583 (under investigation)
5. 19-122-14139 (under investigation)
6. 19-123-11102 (under investigation)
7. 19-125-7304 (under investigation)

Informal Settlement Conference Panel List

<i>Conference Date:</i>	<i>Conference Panel:</i>	
August 10-11, 2021	???????????????? ???????????????? ????????????????	(Future)
May 11-12, 2021	Susan Fletcher, Ph.D. Andoni Zagouris, M.A. John Bielamowicz	(Future)
February 9-10, 2021	Susan Fletcher, Ph.D. Andoni Zagouris, M.A. Ryan T. Bridges?	(Future)
November 17-18 2020	Lou Ann Todd Mock, Ph.D. Andoni Zagouris, M.A. John Bielamowicz	(Future)
August 11-12, 2020	Ronald Palomares, Ph.D. Herman B. Adler, M.A. Ryan T. Bridges	(Current)
May 12-13, 2020	Susan Fletcher, Ph.D. Andoni Zagouris, M.A. John Bielamowicz	
February 11-12, 2020	Susan Fletcher, Ph.D. Herman B. Adler, M.A. Ryan T. Bridges	
November 12-14, 2019	Lou Ann Todd Mock, Ph.D. Andoni Zagouris, M.A. Ryan T. Bridges	
August 13-14, 2019	Ronald Palomares, Ph.D. Herman B. Adler, M.A. John Bielamowicz	
May 14-15, 2019	Lou Ann Todd Mock, Ph.D. Andoni Zagouris, M.A. Angela Downes	

Clearing Up the Confusion of When to Release Records as it Relates to Test Data and Test Materials: TSBEP Board Rule 465.22(c) Explained

There is a lot of discussion in the psychological community about what licensees need to do when testing materials and data are requested. Despite this being covered in TSBEP Board Rules, clarification will help all licensees do what is expected. This article is the Board's attempt to assist all licensees to better understand TSBEP Board Rule 465.22(c) for proper compliance in the best interest of the public.

To review, TSBEP Board Rule 465.22(c)(3)-(5) states:

- (c) Access to Records.
 - (3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.
 - (4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.
 - (5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.

TSBEP Board Rule 465.1(19) and (20) define "test data" and "test materials":

- (19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.
- (20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

There are four types of records to consider when making sure licensees do the right thing.

1. Records due to the work of an LSSP in a school setting.
2. The records due to the services performed by a licensee in a community setting, i.e. working at an agency or other organization such as a hospital.
3. The records due to the services performed by a licensee in a private practice setting.
4. The records due to the services performed by a licensee in a forensic setting.

School Setting: As it relates to records produced by an LSSP, those record requests would be the responsibility of the school district or private school where the work was performed rather than the LSSP releasing them independently. See Board rule 465.22(a)(6) which states as follows:

- (a) General Requirements.

- (6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.

Community Setting: The same is true for licensees working in community settings. In a community setting, it is the responsibility of the organization to utilize the policies and procedures of the organization while also following the TSBEP rules for those licensed by this board. Typically, the community organization owns the records. See Board rule 465.22(b)(6) which states as follows:

- (b) Maintenance and Control of Records.
 - (6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.

It is important to note that licensees are still responsible for complying with all Board rules and if a licensee has knowledge that a community setting is violating record retention, maintenance, or access requirements it is incumbent upon the licensee to inform the community setting as it may also be in violation of other state and federal law.

Where record requests can get confusing is when a licensee is in private practice or in a forensic setting. For licensees in private practice and for those performing services for a court for forensic purposes, here is what to consider:

Private Practice Setting: When a client/patient asks for records, it is expected that the licensee will give the full file. If there is psychological testing, any test data gathered regarding the patient must also be released. If the test data is comingled with test materials the licensee may offer to provide a summary of the data but if a summary is not acceptable to the client/patient then the licensee will have to either redact the test materials or extract the test data from the materials. The client/patient does not get the test materials (i.e. test booklet) but the client/patient gets everything else in the licensee's file, including the licensee's notes. Please refer back to Board rule 465.22(c)(4)-(5) which is stated above.

The general purpose behind releasing the test data is so the patient may take the file to another qualified mental health professional who can fully review the work previously done to get a clear and accurate picture of all services previously performed. If a licensee is having trouble differentiating between test data and test materials they should refer back to the definitions cited above and also consider the following questions. Was this information provided by the patient/client and was it used in any way in the evaluation of the client/patient? Or conversely, is the information in question directly and only authored by the test publisher (e.g. test questions)? The general purpose behind the exclusion from providing test materials is due to copyright law and maintaining the validity of the testing instrument. Often test publishers will require licensees to sign contracts which prohibits the release of the test materials created by a test publisher and informing the licensee that such materials are the intellectual property of the publisher. Therefore

test materials maintain some level of protection from release but, with the test data being released, other qualified mental health professionals can purchase or contract with the test publisher and obtain a copy of the test materials previously used so they may not only review and check the work previously done but also ensure the continuity of care of the patient by having all the documentation to understand all the services previously provided to the patient.

If a licensee believes, in his or her professional judgement, that the requested records are reasonably likely to endanger the life or physical safety of the patient or another person, then the licensee may withhold some or all of the requested patient information but in order to do so the licensee must comply with the requirements of Board rule 465.22(c)(9)(C); provide the patient with a written statement that is signed and dated reflecting the licensee's determination regarding the records and specifying the portion of the records being withheld, the reason for the denial, and the duration of the denial.

Forensic Settings: When records are requested in a forensic setting the first question should be what is the nature of the forensic engagement and who is the client? For example, a licensee may be hired by a police department to conduct a fitness for duty evaluation for employees or the Social Security Administration may employ a licensee to conduct a disability evaluation of an individual. In both examples the client is the employing or contracting entity and not the evaluatee. Therefore any request for records by a former evaluatee should be directed to the employing or contracting entity. It is important that licensees document and inform the clients and evaluatees of the true nature of this arrangement. See Board rule 465.18(c)(1)-(9) which states as follows:

- (c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:
 - (1) The nature of the anticipated services (procedures);
 - (2) The specific purpose and scope of the evaluation;
 - (3) The identity of the party who requested the psychologist's services;
 - (4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;
 - (5) The type of information sought and the uses for information gathered;
 - (6) The people or entities to whom psychological records will be distributed;
 - (7) The approximate length of time required to produce any reports or written results;
 - (8) Applicable limits on confidentiality and access to psychological records;
 - (9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding;

When a psychologist is court appointed to conduct a forensic child custody evaluation the client will be the court. But when a psychologist's records are requested by attorneys after a custody evaluation report or a psychological evaluation report has been submitted, a psychologist should give all of his or her records, test materials, and test data to the attorney for them to give to the psychologist who is reviewing their work. For example, this could include the questions and answers on the Behavior Assessment System for Children – 3rd Edition, where the questions and

answers are on the same sheet. This could also include the critical items that are listed for results with an MMPI-2. See Texas Family Code Section 107.112(c) which states the following:

- (c) Except for records obtained from the department in accordance with Section 107.111, a private child custody evaluator shall, after completion of an evaluation and the preparation and filing of a child custody evaluation report under Section 107.113, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, and any person appointed under this chapter in the suit in which the evaluator conducted the evaluation, unless a court has issued an order restricting disclosure of the records.

This more often occurs during a child custody evaluation when an evaluator is being reviewed after doing a custody or psychological evaluation. Because the files for a court related evaluation are “court documents,” psychologists are expected to give everything in the file that was relied upon for their opinions, conclusions, and recommendations, including test materials and data, to the attorney and to the identified reviewer with the exception of the records discussed in Sections 107.111 and 107.1111. To put it simply, both the attorneys and the reviewers get everything in the file in response to a request with those two exceptions. When a file is requested in a forensic matter, there is no reason to withhold or redact protocol sheets (that have the questions on it) from the attorneys since they are forensic records being requested. There is also no reason to wait and give the testing only to the reviewer once the licensed psychologist who will be reviewing a forensic file is identified. It is important to note that the issue of copyright protection regarding test materials considered above are still relevant to this scenario but need to be addressed differently. The best practice of a licensee may be to inform and obtain written consent from the party they are releasing records to that certain identified records are covered by copyright protection and the party receiving such records should not misuse such records, such as disclosing their contents publicly or using the materials for their own personal or commercial gain, or they may run afoul of the copyright protection the author has in the test material.

It is important to note that Texas Family Code Section 107.112 was created by House Bill 1449 from the 84th Regular Legislative Session. While the bill became law on September 1, 2015, Section 5.03 of the bill states that the “changes in law made by this Act apply to a suit affecting the parent-child relationship that is filed on or after March 1, 2016.” Since Section 107.112 was created by this bill then this statute does not retroactively apply to all lawsuits, it only applies to suits filed on or after March 1, 2016. For suits filed prior to this date, licensees should apply the previous standard. First look to the court’s order, it may limit access to records by specifically addressing who is granted access to them and what should be provided. If the court’s order is silent on this issue then the psychologist should reach out to the client, the court. The discretion as to what records to provide, to whom, and when falls under the purview of the court in prior suits affecting parent-child relationships.

When records are requested by an attorney, it is best practice to inform opposing counsel they are being requested. Each attorney can then receive a copy of the file at the same time. If a litigant that requests their records is pro se (representing himself or herself as their own attorney in a legal proceeding), it is best to confirm that and then let opposing counsel know they have been requested for transparency.

Some additional issues that come up when psychologists are faced with a release of records are whether or not to obtain a release of information and psychotherapy notes.

Release of Information: It is always important to have a release of information prior to releasing records. It is also best practice to secure the expected releases early in the process whether it is in a private practice setting, community setting, school setting or for services that are the result of litigation. In particular, it is important to have the litigant sign releases of information for themselves and their children for all attorneys involved and for the court so it is clear that the information will be provided when it is requested at the appropriate time in the process.

Psychotherapy Notes: Finally, there appears to also be confusion about “Psychotherapy Notes.” Board rule 465.22(c)(10) states the following:

- (c) Access to Records.
 - (10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45 C.F.R. §164.501, maintained by the licensee concerning the patient.

The definition of psychotherapy notes listed in 45 C.F.R. §164.501 is:

- a. “Psychotherapy notes means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual’s medical record.”
- b. “Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.”

Whether it is the proper release of records, the difference between test materials and test data, the rules for forensic practice, the definition of psychotherapy notes, or other information as it relates to the practice of psychology in Texas, look to the TSBEP rules for information as you continue to practice in the best interest of the public. If the licensee receives a request for information in the form of a subpoena, please review the previous TSBEP newsletter from winter of 2012 (Volume 26, No. 1) for more information. A copy of this prior newsletter can be found at the link below.

<https://www.tsbep.texas.gov/files/newsletters/12Winter.pdf>