

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



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Texas State Board of Examiners of Psychologists Meeting Agenda

July 13, 2023, 10:00 a.m.

The July 13, 2023 meeting of the Texas State Board of Examiners of Psychologist will be held by videoconference call, as authorized under Texas Government Code section 551.127. One or more Board members may appear at the scheduled meeting via videoconference call, but the presiding member will be physically present at George H.W. Bush State Office Bldg. 1801 Congress Avenue, Ste. 7.301, Austin, Texas 78701. This location will be open to the public, but seating is limited to first come, first served. Due to health and safety concerns, as well as the size of the available meeting room, public seating will be limited to three (3) individuals.

Members of the public are encouraged to access and participate virtually in this meeting by entering the URL address <https://us02web.zoom.us/j/84305218771> into their web browser. Telephone access numbers and additional videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at www.bhec.texas.gov prior to the meeting. A recording of the meeting will be made available on the Council's YouTube channel after the meeting is adjourned. To obtain a copy of the recording, please contact the Council's public information officer at Open.Records@bhec.texas.gov.

For members of the public wishing to give public comment, once the public comment item is reached on the agenda after the meeting convenes, the presiding member will allow those who are attending in person to give public comment first and then 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 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. Please note that public comment is not intended for a discussion or a question-and-answer session with the Board. Additionally, 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 by [clicking here](#). Only those written public comments received by 5pm on the last business day prior to the meeting will be submitted to the council members for their consideration. No written comments received will be read aloud during the meeting.

Please note that the Board may request input during the meeting from any interested parties or members of the public in attendance 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, <https://fs2.formsite.com/S2vjIK/ptrmyhbxo/index.html> and select “Administration and Executive Leadership” from the drop-down menu to send an email, 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.

Meeting Agenda for July 13, 2023, 10:00 a.m.

1. Call to Order – Roll Call
2. Public Comments - Public comment is limited to three (3) minutes per individual, unless otherwise directed by the Board Chair. Please note that the Board may not discuss or take action on any matter raised during public comment, except to decide whether to place the matter on the agenda of a future meeting. Limited public comment related to rulemaking may be allowed by the Chair, in his or her sole discretion, prior to the Board taking up any rulemaking topics on the agenda.
3. Chair’s Report
4. Board Administrator Report
 - A. Council Report - FY 2023-Q3 Measures Report
 - B. PSYPACT Update
 - C. ASPPB Update
 - i. Annual Conference October 2023 - Board Voting Delegate*
5. Enforcement Division
 - A. Enforcement Staff:
 - i. Review of Dismissals by Executive Director and Staff
 - ii. Status Reports - FY 2023 – Q3
 - iii. Discussion on ISC Panels*
 - iv. Dismissals for Board ratification*
 - B. Agency Counsel:
 - i. Review of Agreed Orders Approved by Executive Director
 - ii. Agreed Orders for Board Ratification*
 - iii. Review of Contested Cases from the State Office of Administrative Hearings (SOAH)*
6. Committee Reports
 - A. Applications Committee
 - i. Appeal of Application Denial* (Per 22 TAC 882.3(b))
 - ii. Application(s) for Licensure*

- B. Compliance Committee
 - i. Review of Compliance with Agreed Orders
 - C. Jurisprudence Examination Committee
 - D. Rules Committee
7. Rulemaking
- A. New Rules or Proposed Rule Changes Being Considered for Recommendation to the Executive Council*
 - i. Rule 463.9, Licensed Specialist in School Psychology
 - ii. Discussion on Petition for Rulemaking for Rule 463.8, Licensed Psychological Associate
 - B. Rules Published in the Texas Register and Awaiting Adoption Recommendations*
 - i. Rule 463.8, Licensed Psychological Associate
8. Discussion and consideration of meeting dates for the 2024-25 biennium.
9. Discussion on ASPPB EPPP Part 2
10. Discussion and consideration of letter requesting modifications to licensing contract.*
11. Review of OAG Opinion No. KP-0443 regarding the Council's authority to adopt a rule authorizing the use of the title School Psychologist by LSSPs
12. Recommendations for agenda items for the next Board meeting
13. Adjournment

Addendum: Additional Videoconference and Telephone Conference Call Information

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

When: Jul 13, 2023 10:00 AM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Psychologists July 13, 2023 Board Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84305218771>

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3rd QUARTER PERFORMANCE MEASURES

FISCAL YEAR 2023


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

by

Texas Behavioral Health Executive Council


Executive Director

June 27, 2023


Date

Agency code: 510 Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
Output Measures					
1-1-1 LICENSING					
1 # NEW LICENSEES ISSUED					
Quarter 1	7,800.00	2,404.00	2,404.00	30.82 % *	1,560.00 - 2,340.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the first quarter of FY 23, the agency exceeded its target by issuing 2,404 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

1 # NEW LICENSEES ISSUED

Quarter 2

7,800.00 2,353.00 4,757.00 60.99 % * 3,510.00 - 4,290.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the second quarter of FY 23, the agency exceeded its target by issuing 2,353 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

1 # NEW LICENSEES ISSUED					
Quarter 3	7,800.00	2,355.00	7,112.00	91.18 % *	5,460.00 - 6,240.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the third quarter of FY 23, the agency exceeded its target by issuing 2,355 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

2 # LICENSE RENEWALS

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures					
2 # LICENSE RENEWALS					
Quarter 1	44,000.00	7,213.00	7,213.00	16.39 % *	8,800.00 - 13,200.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the first quarter of FY 23, the agency fell short of its target, renewing 7,213 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510 Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

2 # LICENSE RENEWALS

Quarter 2	44,000.00	7,583.00	14,796.00	33.63 % *	19,800.00 - 24,200.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the second quarter of FY 23, the agency fell short of its target, renewing 7,583 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
Output Measures					
2 # LICENSE RENEWALS					
Quarter 3	44,000.00	8,590.00	23,386.00	53.15 % *	30,800.00 - 35,200.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the third quarter of FY 23, the agency fell short of its target, renewing 8,590 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

2-1-1 ENFORCEMENT

1 COMPLAINTS RESOLVED

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

I COMPLAINTS RESOLVED

Quarter 1	1,200.00	209.00	209.00	17.42 % *	240.00 - 360.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the first quarter of FY 23, the agency fell short of its target by resolving 209 complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the first quarter of FY 23 is down to 413. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures					
1 COMPLAINTS RESOLVED					
Quarter 2	1,200.00	167.00	376.00	31.33 % *	540.00 - 660.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the second quarter of FY 23, the agency fell short of its target by resolving 167 complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the second quarter of FY 23 is down to 347. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

1 COMPLAINTS RESOLVED

Quarter 3	1,200.00	116.00	492.00	41.00 % *	840.00 - 960.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the third quarter of FY 23, the agency fell short of its target by resolving 116 complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the third quarter of FY 23 is down to 385. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

2 COMPLAINTS PENDING

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

2 COMPLAINTS PENDING

Quarter 1

800.00	413.00	413.00	51.63 % *	760.00 - 840.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the first quarter of FY 2023, the agency bested this measure by only having 413 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 413 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

2 COMPLAINTS PENDING

Quarter 2

800.00

347.00

347.00

43.38 % *

760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the second quarter of FY 23, the agency bested this measure by only having 347 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 347 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
Output Measures					
2 COMPLAINTS PENDING					
Quarter 3	800.00	385.00	385.00	48.13 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the third quarter of FY 2023, the agency bested this measure by only having 385 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 385 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

Efficiency Measures

1-1-1 LICENSING

1 AVG TIME TO PROCESS APP (DAYS)

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME TO PROCESS APP (DAYS)

Quarter 1

50.00

37.37

37.37

74.74 % *

47.50 - 52.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the first quarter of FY 23, the agency bested this measure by having an average license issuance time of only 38 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 38 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME TO PROCESS APP (DAYS)

Quarter 2

50.00

35.76

36.57

73.14 % *

47.50 - 52.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the second quarter of FY 23, the agency bested this measure by having an average license issuance time of only 36 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 37 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME TO PROCESS APP (DAYS)

Quarter 3

50.00

33.50

35.54

71.08 % *

47.50 - 52.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the third quarter of FY 23, the agency bested this measure by having an average license issuance time of only 34 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 36 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

2-1-1 ENFORCEMENT

1 AVG TIME/COMPLAINT RESOLUTION

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME/COMPLAINT RESOLUTION

Quarter 1

700.00

288.42

288.42

41.20 % *

665.00 - 735.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the first quarter of FY 23, the agency bested this measure by having an average processing resolution time of 289 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 289 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Efficiency Measures

1 AVG TIME/COMPLAINT RESOLUTION

Quarter 2

700.00	309.94	297.98	42.57 % *	665.00 - 735.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the second quarter of FY 23, the agency bested this measure by having an average processing resolution time of 310 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 298 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR

* Varies by 5% or more from target.

Agency code: 510 Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
Efficiency Measures					
1 AVG TIME/COMPLAINT RESOLUTION					
Quarter 3	700.00	271.22	291.67	41.67 % *	665.00 - 735.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the third quarter of FY 23, the agency bested this measure by having an average processing resolution time of 272 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 292 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR.

* Varies by 5% or more from target.

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL
3rd QUARTER MEASURES
FY 2023

Number of Licenses Renewed (from ald12)

LSSP	484
LIC	684
LPA	92
LPC	3345
MFT	462
LBSW	419
LMSW	1524
LCSW	1570
AP	10

Total	8590
-------	------

Number of Licenses Issued (from ald11 and BO)

LPA	7
PLP	52
LIC	78
LSSP	37
LPCA	465
LPC	123
LPC Upgrade	523
MFTA	53
MFT	48
MFT Upgrade	51
LBSW	38
LMSW	406
LCSW	154
LMSW Upgrade	16
LCSW Upgrade	297
TEMP SW	7

Total	2355
-------	------

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL
3rd QUARTER MEASURES
FY 2023

Number of Complaints Resolved (from BO report)

LP/LPA	12
LSSP	0
LPC	59
MFT	7
SW	38
Total	116

Percent of Complaint Resolved Within Six Months (from BO report)

1 st Qtr	125/209 =	60%
2 nd Qtr	88/167 =	53%
3 rd Qtr	54/116 =	47%
4 th Qtr		
YTD	267/492 =	55%

Percent of Complaints Resolved resulting in Disciplinary Action (from BO report)

1 st Qtr	25/209 =	12%
2 nd Qtr	29/167 =	18%
3 rd Qtr	31/116 =	27%
4 th Qtr		
YTD	85/492 =	18%

Average Time for Complaint Resolution (from BO report)

1 st Qtr	60,278 days to resolve 209 complaints =	288.42 days
2 nd Qtr	51,760 days to resolve 167 complaints =	309.94 days
3 rd Qtr	31,462 days to resolve 116 complaints =	271.22 days
4 th Qtr		
YTD	143,500 days to resolve 492 complaints =	291.67 days

Average Time for Application Processing (from BO report) (**Bold averages only**)

1 st Qtr	86,169 days to process 2,306 applications =	37.37 days
2 nd Qtr	82,086 days to process 2,296 applications =	35.76 days
3 rd Qtr	77,670 days to process 2,319 applications =	33.50 days
4 th Qtr		
YTD	245,925 days to process 6,921 applications =	35.54 days

Calculations reviewed by: _____

Date: _____

LPA Initial	671 days to process 20 applications =	33.55
LPA Final	1676 days to process 7 applications =	239.43
LIC Initial	3425 days to process 81 applications =	42.29
LIC Final	12088 days to process 52 applications =	232.47
LSSP	1081 days to process 37 applications =	29.22
LPC Initial	7154 days to process 123 applications =	58.17
LPCA Initial	16274 days to process 465 applications =	35.00
LPC Upgrade	4303 days to process 523 applications =	8.23
MFT License	4991 days to process 48 applications =	103.98
MFTA License	7395 days to process 53 applications =	139.53
MFTA Upgrade	433 days to process 51 applications =	8.49
SW License	7865 days to process 358 applications =	21.97
SW OOS License	17233 days to process 240 applications =	71.81
SW Upgrade	6672 days to process 313 applications =	21.32
Temp SW License	173 days to process 7 applications =	24.72

- Those in **BOLD** are the applications we have more control over (i.e. we are not waiting for them to take and pass a national exam).
- Highlighted **MFTA License** measure will be removed from those in **BOLD** effective FY24, as we no longer have any control over when these applicants take the MFT exam.

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL
ANNUAL MEASURES
FY 2023

Number of Jurisdictional Complaints Received (from BO report)	153
Number of Complaints Pending (from BO report)	385
Closed	2
Investigation Completed	73
Under Investigation	310

Percent of Licensees With No Recent Violations

<i>Total</i>	<i>295 disciplinary actions</i>
<i>Less duplicates</i>	<i>-58 duplicates</i>
<i>Total unduplicated</i>	<i>237 disciplinary actions</i>

Number of individuals (unduplicated) licensed as of 8/31/2021: 74,233

$$74,233 - 237 = 73,996$$

$$73,996/74,233 = 99.68\%$$

Recidivism Rate

<i>Individuals with disciplinary actions FY 19 – FY 21</i>	<i>237</i>
<i>Individuals with 2 or more disciplinary actions</i>	<i>14</i>

$$14/237 = 5.91\%$$

Calculation Reviewed by: _____

Date: _____

Commission News

VOL. 4, Issue 2

July 2023



Message from The Chair: Don Meck

PSYPACT has had a great year already and increased to 40 enacted states. After July 1st, we will have 37 effective members with Florida and Rhode Island joining us. Then on July 17th, South Carolina will become the 38th effective member. On August 1st we will grow to 39 when North Dakota becomes effective. Vermont is our 40th enacted state, but does not become effective until July 1st, 2024. Continued growth is beneficial to all our members and the qualified psychologists providing necessary psychological services under PSYPACT. As well as focusing on growing our compact, the PSYPACT Commission released the First Annual Report on March 27, 2023 for your review. Hope to see all of you at the upcoming meeting

Donald S. Meck, Ph.D., J.D., ABPP
Chair, PSYPACT Commission

Executive Director Update: Janet Orwig

Greetings! Summer is officially upon us. I hope you all are managing the heat! As you may remember, the Commission approved creating the first-ever Strategic Plan for PSYPACT. I am excited to share that the Strategic Planning Process Work Group has had many meetings and will be presenting an overview of strategic processing as well as possible next steps at the Commission's July meeting. The Work Group is chaired by Dan Schroeder (WI) and includes Robin McLeod (MN) and Lori Rall (AL). The Work Group hopes that all of you will be involved in the creation of the strategic plan and looks forward to your feedback throughout the process. I look forward to "seeing" you all at the July 13th Zoom meeting of the full Commission. As always, I cannot thank you enough for all you do for PSYPACT.
Janet P. Orwig, MBA, CAE
PSYPACT Executive Director

Upcoming Meetings

Mid Year Commission Meeting	7/13/23
Elections Committee	8/11/23
Training and PR Committee	8/18/23
Finance Committee	9/7/23
Commission	11/16/23- 11/17/23

PSYPACT Commissioners

Lori Rall Alabama	Johnna Williams Nebraska
Heidi Paakkonen Arizona	Gary Lenkeit Nevada
Lisa Fitzgibbons Arkansas	Deborah Warner New Hampshire
Nate Brown Colorado	Sean Evers New Jersey
Christian Andresen Connecticut	Susan Hurt North Carolina
Glenda S. George Commonwealth of the Northern Mariana Islands	Ronald Ross Ohio
Shauna Slaughter Delaware	Teanne Rose Oklahoma
LaTrice Herndon District of Columbia	Steven Erickson Pennsylvania
Don Meck Georgia	Peter Oppenheimer Rhode Island (*tentatively 7/1/2023)
Katie Stuart Idaho	Mark Fleming Tennessee
Cecilia Abundis Illinois	Patrick Hyde Texas
Stephen Ross Indiana	Jana Johansen Utah
David Fye Kansas	Jaime Hoyle Virginia
To be determined Kentucky	Leslie Cohn Washington
Jayne Boulos Maine	Scott Fields West Virginia
Lorraine Smith Maryland	Daniel Schroeder Wisconsin
Amy Gumbrecht Michigan	JoAnn Reid Wyoming
Robin McLeod Minnesota	Mariann Burnetti- Atwell ASPPB
Pam Goose Missouri	

Staff Contact Information:

Janet Orwig
PSYPACT Executive Director
jorwig@asppb.org

Gina Polk
PSYPACT Specialist
rpolk@asppb.org

Legislation Updates:

It has been a busy 2nd Quarter. During this quarter Florida, North Dakota, South Carolina and Vermont have enacted Legislation. Currently we have 35 effective PSYPACT participating states, soon to be 40. In the 3rd quarter Florida, Rhode Island, South Carolina and North Dakota are tentatively scheduled to become effective. Vermont has a tentative effective date of 7/1/2024. Massachusetts and New York have active PSYPACT legislation.

Committee Updates:

Rules: *Patrick Hyde, Pam Goose, Deborah Warner, Lorraine Smith, Susan Hurt*
The Rules Committee met on May 3rd via Zoom. The Committee reviewed the many suggested changes provided by PSYPACT legal counsel in reference to Commission Code of Ethics. The Committee also reviewed the proposed draft language and made suggested edits for the Renewal policy. The Committee will continue to review and finalize the Commissioner Code of Ethics at its next meeting.

Finance: *Teanne Rose, Jaime Hoyle, Heidi Paakkonen*
The Finance Committee met on May 5th via Zoom. The Committee reviewed the 1st Quarter Financial information, discussed Renewal late fees for APIT and TAP, discussed the audit process and accounting firm selection.

Compliance: *Jaime Hoyle, Lisa Fitzgibbons, Scott Fields*
The Compliance Committee met on May 15th via Zoom. The Committee reviewed the compliance data for the 1st Quarter of 2023. Although some continue to be out of compliance, there has been a significant decrease from the 4th quarter. The Committee discussed next steps for those states with continued non-compliance and recommendations for the Executive Board.

Elections: *Dan Schroeder, Jayne Boulos, Jaime Hoyle*
Elections Committee met on March 6th via Zoom. The Committee reviewed the Election Policy and election format and process for the November 2023 elections. The Committee also approved messaging to be sent reminding the Commission of the Executive Board positions coming up for election in November. Several positions will be up for election this year: Chair, Treasurer and one member-at-large.

Executive Board Members

Chair - Don Meck

Vice Chair - Lori Rall

Treasurer - Teanne Rose

Member at Large - Gary Lenkeit

Member at Large - Patrick Hyde

Ex Officio Member - Mariann Burnetti - Atwell

PSYPACT by the Numbers

TELEPSYCHOLOGY

10015 9553

ASPPB
E. Passports
Issued

PSYPACT
APITs
Issued

TEMPORARY PRACTICE

640 522

ASPPB
IPCs Issued

PSYPACT
TAPs Issued

STATE LEVEL BREAKDOWN

State	APITs	TAPs	State	APITs	TAPs
ALABAMA	55	8	MISSOURI	245	16
ARIZONA	250	22	NEBRASKA	57	3
ARKANSAS	32	6	NEVADA	106	11
COLORADO	469	20	NEW HAMPSHIRE	102	6
CNMI	0	0	NEW JERSEY	586	15
CONNECTICUT	167	9	NORTH CAROLINA	397	26
DELAWARE	117	3	OHIO	376	14
DISTRICT OF COLUMBIA	270	9	OKLAHOMA	59	4
GEORGIA	414	17	PENNSYLVANIA	920	35
IDAHO	29	2	RHODE ISLAND	N/A	N/A
ILLINOIS	847	28	TENNESSEE	167	11
INDIANA	93	5	TEXAS	799	51
KANSAS	85	8	UTAH	178	24
KENTUCKY	78	2	VIRGINIA	618	36
MAINE	65	2	WASHINGTON	250	22
MARYLAND	784	16	WEST VIRGINIA	36	3
MICHIGAN	60	3	WISCONSIN	69	5
MINNESOTA	249	10	WYOMING	9	1

Numbers as of July 3, 2023

PSYPACT®

Things to Look Forward to in 2023:

- The APIT and TAP renewal process will open on October 1, 2023.
- Florida, North Dakota, Rhode Island and South Carolina becoming effective.

Reminder!

Make sure to sign your Conflict of Interest forms!

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The Nuts and Bolts of Regulation: Practical Skills and Strategies

ASPPB's 63rd Annual Meeting
September 27 – October 1, 2023
Cleveland, Ohio



ASPPB's 63rd Annual Meeting of Delegates

We are happy to announce that ASPPB's 63rd Annual Meeting is taking place this September 27th - October 1st in Cleveland, Ohio! The theme of this year's meeting is "The Nuts and Bolts of Regulation: Practical Skills and Strategies". During this meeting sessions will cover such topics as:

- Discerning disciplinary issues and outcomes following a mock hearing
- Ensuring language and questions used in applications for licensure/registration are fair
- Legislative issues being faced by ASPPB jurisdictions
- Licensure at the master's level
- Continuing professional development vs. continuing education models for maintaining competence

As a result of coming to the ASPPB 63rd Annual Meeting, attendees will be able to:

- Compare the Continuing Professional Development (CPD) model versus the Continuing Education (CE) model to maintaining competence

A draft agenda that is now available on our website, and you can find this anytime by logging in and using this link: <https://www.asppb.net/page/2023AM>. A total of 13.5 continuing education credits are available as a result of attending this conference.

The Association of State and Provincial Psychology Boards (ASPPB) is approved by the American Psychology Association to sponsor continuing education for psychologists. The Association of State and Provincial Psychology Boards maintains responsibility for this program and its content.



REGISTRATION OPEN!

ASPPB is excited to see all of you in Cleveland, Ohio for our 63rd Annual Meeting of Delegates to be held September 27-October 1, 2023! Registration for the meeting is now open! Please read below for information on how to register for this event:

Registration Fee: **\$280.00 (early bird special)**

Please use code **MEMBER23** at checkout for the early bird rate. After the early bird discount expires (7/28/23) the price will be \$315.00

Please follow these directions carefully to complete registration:

1. **To begin registration, follow this link:** <https://cms.eventur.com/register/1850>
2. Fill in the required fields of the registration form.
3. Once you have completed the required fields, click on PAY NOW and enter the code **MEMBER23** to receive your discount.

Additional Attendees:

If you will be registering additional meeting attendees, you can simply click on the +ATTENDEES button on the right side of the screen to add additional attendee information (the pricing will automatically calculate).

Guest Registration:

If you will be bringing a guest to the Annual Meeting, you can simply select the number of guests at the bottom once you've completed the top portion of the form. If you need to pay for a guest registration with a separate credit card please contact us at meetinghelpdesk2@asppb.org.

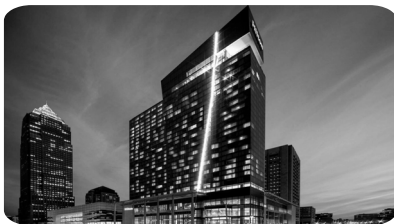
Jurisdictional Financial Assistance (JFA)

All jurisdictions have \$500 per year (up to \$1,000 if not used the previous year) available to use to offset travel or hotel costs, payable to the board or to the attendee. To apply, reach out to Jennifer Vetter at jvetter@asppb.org.

Want to register for **FREE?**

One person from each of ASPPB's member jurisdictions is able to register for our Annual Meeting free of charge! This individual is the **voting delegate** and will represent their jurisdiction as we vote for the open ASPPB Board of Director positions. To receive a special discount code, which completely waives the registration fee, please **email meetinghelpdesk2@asppb.org and ask for the delegate discount code.**

IMPORTANT HOTEL INFORMATION



Hilton Cleveland Downtown

100 Lakeside Avenue East
Cleveland, OH 44114



Tax Rate: 17.5%

Room Block Information:

Room block reservation link - [CLICK HERE](#)

Room block ends: Monday, September 4th

MEETING DETAILS

Preparing for the Meeting

While we usually ask that you bring an open mind, a desire to learn, and a healthy appetite to our membership meetings, for this year's Annual Meeting we would like to ask that you bring one additional item. On Friday, September 29th, we will be examining the language used on applications for licensure/registration regarding DEI&A issues. To help facilitate this session, we are asking that you please bring a blank application from your jurisdiction to review in a small group setting.

ASPPB's President's Dinner

President's Dinner

Friday • Sept 29th

**DOORS
OPEN
6:30 PM**

**Location:
Rock and
Roll Hall of Fame!**

Do you have music flowing through your veins? Have you ever had the desire to ROCK?! Does having an entire museum dedicated to rock 'n roll all to yourself make you want to dance with excitement? Well, do we have news for you! Please join us for our President's Dinner at the Rock and Roll Hall of Fame! We have rented out the entire museum for you to explore. There is also a special musical group starring YOU! The Garage Band exhibit has instruments you can learn how to play. Then, you can move to the Jam Room to put your new talent to use and rock out! ASPPB has had numerous bands/DJs to provide entertainment, but this year YOU are the entertainment! So, grab your favorite rock band's T-shirt and join us for an amazing night with great food, wonderful exhibits, and music like we've never had it before!

COVID-19 Information

By attending the ASPPB's 63rd Annual Meeting I assume all risks and accept sole responsibility for any injury (including, but not limited to, personal injury, disability, and death), illness, damage, loss, claim, liability, or expense, of any kind, that I may experience or incur in connection with attending the ASPPB event. I hereby release, covenant not to sue, discharge, and hold harmless the ASPPB, its employees, agents, and representatives, of and from any such claims, including all liabilities, claims, actions, damages, costs, or expenses of any kind arising out of or relating thereto.

risk of exposure or infection by attending the Annual Meeting, and that such exposure or infection may result in personal injury, illness, disability, and/or death to me and/or others with whom I have contact. I understand that the risk of becoming exposed to or infected by COVID-19 to and from and during the Annual Meeting may result from the actions, omissions, or negligence of others who may attend the Annual Meeting or their families, colleagues, or others with whom they may have had contact. Accordingly, by registering and attending the meeting I release any claims based on the actions, omissions, or negligence of the ASPPB, its employees, agents, and representatives, whether a COVID-19 infection occurs before, during, or after participation at the Annual Meeting.

In addition to all other rules and regulations relating to my attendance at the Annual Meeting, I agree to comply with all COVID related procedures that may be implemented by ASPPB and the hotel, including, but not limited to mask-wearing and social distancing requirements and restrictions on certain activities that carry higher COVID-19 related risk to protect as much as possible the health and safety of all Annual Meeting attendees.

At this time, masks are optional — individuals should determine whether to wear a mask based on their particular situations. ASPPB reserves the right to change this policy at any time, depending on CDC/WHO guidance, the law (federal, state, and local) and community rates of infection. All in-person participants are required to be fully vaccinated against COVID-19.

If you have any questions or concerns, please feel free to contact John Mickley at jmickley@asppb.org or meetinghelpdesk2@asppb.org.

CONTACT US

Meeting Contact Info:

John Mickley 678-961-2469
meetinghelpdesk2@asppb.org
jmickley@asppb.org

Account Login & JFA Contact Info:

Jennifer Vetter
jvetter@asppb.org

We look forward to seeing you in OHIO!

Our mailing address is:

P.O. Box #849
Tyrone, GA 30290

Main ASPPB Phone Number:

678-216-1175

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You can [update your preferences](#) or [unsubscribe from this list](#).

3rd Quarter Dismissals for TSBEP Board

Complaints Dismissed by Staff	Classification	Reason for Dismissal
1. 2022-00412	Confidentiality	Insufficient Evidence
2. 2022-00528	Confidentiality	Insufficient Evidence
3. 2023-00252	Standard of Care	Insufficient Evidence
4. 2023-00140	Child Custody	Conditional Precedent Not Met
5. 2022-00456	Confidentiality	Insufficient Evidence
6. 2022-00457	Confidentiality	Insufficient Evidence
7. 2023-00148	Child Custody	Conditional Precedent Not Met
8. 2023-00288	Standard of Care	Lack of Jurisdiction
9. 2022-00394	General Forensic	Conditional Precedent Not Met
10. 2022-00492	Failure to Report	Insufficient Evidence
11. 2022-00458	Confidentiality	Insufficient Evidence

ISC Informal Settlement Conference Panel List

<i>Conference Date:</i>	<i>Conference Panel:</i>	
On Call June 1- August 31, 2024	???????????????? ???????????????? ????????????????	(Future)
On-Call March 1 – May 31, 2024	Mark Cartwright, Ph.D. Herman Adler, M.A. Ryan T. Bridges	(Future)
On Call Dec 1 – Feb 29, 2024	Roxana Lambdin, Ph.D. Herman Adler, M.A. Ryan T. Bridges	(Future)
On Call Sept 1 - Nov 30, 2023	Jamie Becker, Ph.D. Andoni Zagouris, M.A. John Bielasowicz	(Future)
On Call June 1- August 31, 2023	Jamie Becker, Ph.D. Andoni Zagouris, M.A. Ryan T. Bridges	(Current)
On-Call March 1 – May 31, 2023	Mark Cartwright, Ph.D. Herman Adler, M.A. John Bielasowicz	
On-Call Dec 1 – Feb 28, 2023	Mark Cartwright, Ph.D. Andoni Zagouris, M.A. Ryan T. Bridges	
On-Call Sept 1 – Nov 30, 2022	Roxana Lambdin, Ph.D. Herman Adler, M.A. Jeanette Das Calhoun, Ph.D.	
On-Call June 1 – August 31, 2022	Sangeeta Singg, Ph.D. Andoni Zagouris, M.A. John Bielasowicz	
On-Call March 1 – May 31, 2022	Jamie Becker, Ph.D. Herman Adler, M.A.* Ryan T. Bridges	

Rule: 463.9. Licensed Specialist in School Psychology.

Action: Proposed Amendment

Comment: The proposed rule amendments allow applicants who were licensed in other states to provide school psychological services or applicants with graduate degrees in related disciplines to psychology to be eligible to apply for licensure as an LSSP so long as the applicant also meets the coursework, examinations, and internship requirements.

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 accredited or 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) Appropriate Graduate Degrees.
 - (1) Applicants who do not hold active NCSP certification, or who did not graduate from a training program accredited or 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. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of study is titled psychology.

- (2) Applicants applying under this subsection must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited institution of higher education. A maximum of 12 internship hours may be counted toward this requirement.
- (3) An applicant who holds a graduate degree that does not qualify under subsection (d)(1) but meets the requirements of subsection (d)(2) is considered to have an appropriate graduate degree if:
 - (A) the applicant holds a certificate of completion from a graduate-level training course designed to train individuals from related disciplines in the practice of school psychology;
 - (B) the applicant holds a graduate degree in a discipline related to psychology from a regionally accredited institution of higher education;
 - (C) the applicant is licensed, certified, or registered in good standing to practice school psychology in another jurisdiction; or
 - (D) the applicant was licensed, certified, or registered to practice school psychology in another jurisdiction within the previous ten years before application for licensure and was not subject to any administrative or disciplinary actions during that same time period.
- (e) Applicants applying under subsection (d) of this section must submit evidence of graduate level coursework as follows:
 - (1) Psychological Foundations, including:
 - (A) biological bases of behavior;
 - (B) human learning;

- (C) social bases of behavior;
 - (D) multi-cultural bases of behavior;
 - (E) child or adolescent development;
 - (F) psychopathology or exceptionalities;
 - (2) Research and Statistics;
 - (3) Educational Foundations, including any of the following:
 - (A) instructional design;
 - (B) organization and operation of schools;
 - (C) classroom management; or
 - (D) educational administration;
 - (4) Assessment, including:
 - (A) psychoeducational assessment;
 - (B) socio-emotional, including behavioral and cultural, assessment;
 - (5) Interventions, including:
 - (A) counseling;
 - (B) behavior management;
 - (C) consultation;
 - (6) Professional, Legal and Ethical Issues; and
 - (7) A Practicum.
- (f) Applicants applying under subsection (d) of this section must have completed an internship with a minimum of 1200 hours and that meets the following criteria:
- (1) At least 600 of the internship hours must have been completed in a public school.

- (2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Council §463.11(d)(1) and (d)(2)(C) of this section.
 - (3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.
 - (4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.
 - (5) Unless authorized by the Council, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
 - (6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.
 - (7) Internship hours must be obtained in not less than one or more than two academic years.
 - (8) An individual completing an internship under this rule must be designated as an intern.
 - (9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.
 - (10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.
- (g) Provision of psychological services in the public schools by unlicensed individuals.
- (1) An unlicensed individual may provide psychological services under supervision in the public schools if:

- (A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education; or
 - (B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Council that has not been denied or returned.
- (2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under §501.004 of the Psychologists' Licensing Act.
 - (3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Council.
 - (4) The authority to practice referenced in paragraph (1)(B) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule.

T.B.H.E.C.

023 MAR -1 PM 1:29

Petition for Psychology Board Rule changes

Brenda Obe
6614 Rosemary Knoll Ln,
Katy, Texas 77494

Saturday February 25th, 2023
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450,
Austin, Texas 78701

Dear committee Panel for Texas State Board of Examiners of Psychologists,

I am writing this letter to request changes to **Board Rule 463.8** concerning the requirement for LPA applicants to hold 60 semester credits from their Master's degree. Within my 2019 LPA application, My degree from 2015 had been evaluated by Robert A. Watkins (Assistant Director from University of Texas at Austin) and it was identified as *"fully comparable to a US master's degree" with a total of 45 graduate hours in child and adolescent mental health*. I believe **Board Rule 463.8** should be replaced with the previous outline (*"Notwithstanding subsection (b) (2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a) (1) of this section, shall be considered to have met the requirements of subsection (b) (2) if the individual has completed 42 semester credit hours"*).

Secondly, I request that a "Grandfathering" clause be considered for LPA applicants who are not seeking independent practice and wish to work under the supervision of a Licensed Psychologist. The clause should specifically be applied to those, including myself, who have previously taken the EPPP examination and obtained scores of ≥ 350 . In order to promote fairness and equality across the different psychology levels, **Board Rule 463.14** prior to changes in 2017, should be reinstated in requiring the minimum EPPP passing score to be 350 (55%) for LPAs under supervision. This should be particularly considered given that LPAs have only studied to Master's level and not that of a PhD applicant.

My most recent employment involved working as a Psychological Associate at Baylor College of Medicine/Texas Children's Hospital - Autism Center, under the supervision of Dr. Leandra Berry (Licensed Psychologist). My work entailed direct testing of cognitive, adaptive and developmental abilities and carrying out assessments within research projects; also under the supervision of a licensed psychologist. When changes were made to **Board Rule 463.8**, BCM Human Resources along with my

supervisor had worked to exhaust all possible solutions in keeping my contract. However, due to no longer meeting license eligibility, my contract was discontinued in June 2022. I have since actively applied for work within psychology but there has been consistent feedback from companies that they can only recruit licensed applicants.

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Thank you for considering my case,

Brenda Obe

- (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)(2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a)(1) of this section, shall be considered to have met the requirements of subsection (b)(2) if the individual has completed 42 semester credit hours.
- (2) 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 to meet the requirement of subsection (g)(1) of this section.
- (1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the

Texas Register

TITLE 22 EXAMINING BOARDS
 PART 21 TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
 CHAPTER 463 APPLICATIONS AND EXAMINATIONS
 RULE §463.14 Written Examinations
 ISSUE 10/06/2017
 ACTION Proposed

Preamble

Texas Admin Code Rule

(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 [~~Professional Examination~~]. 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 [~~satisfied~~] 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.

~~[(c)Doctoral Applicants Taking Exam at Master's Level. An applicant for provisional licensure as a psychologist who has taken the EPPP at the master's level will not be required to retake the exam provided that:]~~

~~[(1)the applicant's score satisfied the Board's current minimum acceptable score for doctoral level applicants; and]~~

~~[(2)the applicant can demonstrate that he or she has remained academically and/or professionally involved in psychology.]~~

(e)[~~(f)~~] Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored [~~for psychologist licensure applicants and fifty-five percent (55%) of questions scored for psychological associate licensure applicants~~] on the pencil and paper version of the test. For computer-delivered EPPP examinations, the cutoff scaled score is 500. [~~are 500 and 350 respectively. Applicants for licensure as a psychological associate must receive a minimum score of eighty percent (80%) of questions scored on the Board's Jurisprudence Examination. All other applications for licensure must receive a minimum score of ninety percent (90%) of questions scored on the Board's Jurisprudence Examination. The exam score of applicants for licensure who have already taken the EPPP must satisfy the requirements of the Board as of the date of application to the Board.~~]

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

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

Filed with the Office of the Secretary of State on September 25, 2017

TRD-201703811

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 5, 2017

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

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T.B.H.E.C.
2023 MAR 31 PM 2:02

Petition for Psychology Board Rule changes

Brenda Obe
6614 Rosemary Knoll Ln,
Katy, Texas 77494

Saturday February 25th, 2023
Texas Behavioral Health Executive Council
George H.W. Bush State Office Building,
1801 Congress Ave., Ste 7.300
Austin, Texas 78701

Dear committee Panel for Texas State Board of Examiners of Psychologists,

I am writing this letter to request changes to **Board Rule 463.8** concerning the requirement for LPA applicants to hold 60 semester credits from their Master's degree. Within my 2019 LPA application, My degree from 2015 had been evaluated by Robert A. Watkins (Assistant Director from University of Texas at Austin) and it was identified as *"fully comparable to a US master's degree" with a total of 45 graduate hours in child and adolescent mental health*. I believe **Board Rule 463.8** should be replaced with the previous outline (*"Notwithstanding subsection (b) (2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a) (1) of this section, shall be considered to have met the requirements of subsection (b) (2) if the individual has completed 42 semester credit hours"*).

Secondly, I request that a "Grandfathering" clause be considered for LPA applicants who are not seeking independent practice and wish to work under the supervision of a Licensed Psychologist. The clause should specifically be applied to those, including myself, who have previously taken the EPPP examination and obtained scores of ≥ 350 . In order to promote fairness and equality across the different psychology levels, **Board Rule 463.14** prior to changes in 2017, should be reinstated in requiring the minimum EPPP passing score to be 350 (55%) for LPAs under supervision. This should be particularly considered given that LPAs have only studied to Master's level and not that of a PhD applicant.

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research projects; also under the supervision of a licensed psychologist. When changes were made to **Board Rule 463.8**, BCM Human Resources along with my supervisor had worked to exhaust all possible solutions in keeping my contract. However, due to no longer meeting license eligibility, my contract was discontinued in June 2022. I have since actively applied for work within psychology but there has been consistent feedback from companies that they can only recruit licensed applicants.

All of my formative years has been revolved around studying Clinical Psychology and Child and Adolescent Mental Health which affects a large distribution of individuals. Ultimately there is an increased need of access to psychological resources and behavioral health support. I thoroughly enjoy the work I do and believe whole heartedly that I continue to demonstrate the skills needed both professionally and ethically to fulfil the role of an LPA.

Thank you for considering my case,

Brenda Obe

Rule: 463.8. Licensed Psychological Associate

Action: Proposed Amendments

Comment: The proposed amendments correct typographical errors in subsections (a)(3) and (b)(3); extends a grandfathering provision for degrees in psychology that began before August 31, 2019; and creates a way for applicants with deficiencies to petition for permission to remediate certain areas of deficiency.

463.8. Licensed Psychological Associate.

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

- (1) hold a graduate degree in psychology from a regionally accredited institution of higher education;
- (2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;
- (3) pass all examinations required by the Council and meet each of the criteria listed in §501.2525(a)(2)(3)-(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:

PLEASE FIND HIGHLIGHTED TEXT/RULES ON
PAGE 4 and 5

(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)(2) and (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the Council with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

- (1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.
- (2) Notwithstanding paragraph (1) of this subsection and subject to the limitations set out in paragraph (3) of this subsection, a licensed psychological associate may practice independently if:
 - (A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;
 - (B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and
 - (C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.
- (3) A licensed psychological associate meeting the requirements of paragraph (2) of this subsection shall be approved for independent practice, but remains subject to all Council rules, including Council §465.9 (relating to Competency).
- (4) Applicants shall not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.

- (5) Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.
- (d) Notwithstanding subsection (c)(3) of this section, an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Council rule §463.11 shall govern any request for a waiver under this rule.
- (e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."
- (f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Council describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Council's website.
- (g) Continuation of Prior Law.
- (1) Notwithstanding subsection (b)(2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a)(1) of this section, shall be considered to have met the requirements of subsection (b)(2) if the individual has completed 42 semester credit hours.
- (2) 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 to meet the requirement of subsection (g)(1) of this section.
- ~~(1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the~~

individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.

- (2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.

(h) Remedy for Incomplete Licensure Requirements.

- (1) An applicant who has completed a graduate degree in psychology, from a regionally accredited institution of higher education, that consists of at least sixty (60) semester credit hours, or meets the requirements of subsection (g) of this section, and who does not meet all of the qualifications for licensure set out in subsection (a)(2) and (4) of this section may petition for permission to remediate an area of deficiency. An applicant may not however, petition for the waiver or modification of the requisite degree or passage of the requisite examinations.
- (2) The Council may allow an applicant to remediate a deficiency identified in paragraph (1) of this subsection if the applicant can demonstrate:
- (A) the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and
- (B) the remediation would not adversely affect the public welfare.
- (3) The Council may approve or deny a petition under this subsection, 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 as a licensed psychological associate.

Texas Register

TITLE 22 EXAMINING BOARDS
 PART 21 TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
 CHAPTER 463 APPLICATIONS AND EXAMINATIONS
 RULE §463.14 Written Examinations
 ISSUE 10/06/2017
 ACTION Proposed

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(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)Doctoral Applicants Taking Exam at Master's Level. An applicant for provisional licensure as a psychologist who has taken the EPPP at the master's level will not be required to retake the exam provided that:}~~

~~{(1)the applicant's score satisfied the Board's current minimum acceptable score for doctoral level applicants; and}~~

~~{(2)the applicant can demonstrate that he or she has remained academically and/or professionally involved in psychology.}~~

(e)[~~(f)~~] Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored [for psychologist licensure applicants and fifty-five percent (55%) of questions scored for psychological associate licensure applicants] on the pencil and paper version of the test. For computer-delivered EPPP examinations, the cutoff scaled score is 500. [are 500 and 350 respectively. Applicants for licensure as a psychological associate must receive a minimum score of eighty percent (80%) of questions scored on the Board's Jurisprudence Examination. All other applications for licensure must receive a minimum score of ninety percent (90%) of questions scored on the Board's Jurisprudence Examination. The exam score of applicants for licensure who have already taken the EPPP must satisfy the requirements of the Board as of the date of application to the Board.]

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

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

Filed with the Office of the Secretary of State on September 25, 2017

TRD-201703811

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 5, 2017

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

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TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL



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Darrel D. Spinks
Executive Director

April 6, 2023

Via Regular Mail

Brenda Obe
6614 Rosemary Knoll Lane
Katy, Texas 77494

Re: Denial of Petition for Rulemaking

Dear Ms. Obe:

On March 31, 2023, the Texas Behavioral Health Executive Council (Council) received your petition for rulemaking regarding 22 Tex. Admin. Code §§ 463.8 and 463.31, formerly 463.14. Pursuant to Tex. Gov't Code § 2001.021(c) this agency must either deny your petition or initiate rulemaking within 60 days. Because your requested changes involve rulemaking that must originate with the Texas State Board of Examiners of Psychologists (Board), staff will forward your petition to the Board for consideration at its next available meeting. Unfortunately, your rulemaking petition was not submitted in time to be added to the agenda for the Board's meeting on April 13, 2023, and the next scheduled meeting for the Board is July 13, 2023, which is beyond this 60 day deadline. Therefore, staff must deny your petition before presenting it to the Board. While staff has denied your petition for the reasons outlined in this letter, please note that your petition, as well as this denial letter, will be presented to the Board at its next regularly scheduled meeting so the Board may review and determine if a different course of action is warranted. The staff denial of your petition does not preclude the Board from considering your petition or the Council from initiating formal rulemaking proceedings.

Your petition requested the following changes to 22 Tex. Admin. Code § 463.8(g)(1):

(g) Continuation of Prior Law.

- (1) Notwithstanding subsection (b)(2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a)(1) of this section, shall be considered to have met the requirements of subsection (b)(2) if the individual has completed 42 semester credit hours.

Council staff declines to initiate rulemaking regarding § 463.8(g)(1) because the proposed language quoted in your petition has already been proposed in the March 31, 2023, issue of the *Texas Register* (48 TexReg

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(Phone) 512-305-7700, www.bhec.texas.gov

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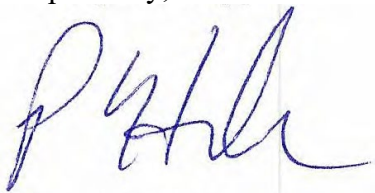
1700). The public comment period for this proposed rule amendment has not closed yet so you may still file a comment regarding this proposed change until April 30, 2023. Therefore Council staff has denied this part of your request because it is duplicative and already in the rulemaking process.

Additionally, your rulemaking petition requested changes to 22 Tex. Admin. Code § 463.31, the change you proposed could be summed up as the following:

- (a) Cut-off Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test for licensed psychologists and licensed psychological associates with independent practice status. For licensed psychological associates without independent practice status the minimum acceptable score for the Examination for Professional Practice in Psychology is 350 for computer based examinations and fifty-five percent (55%) for paper based versions of the test.

Effective December 18, 2017, the Board amended its rules to increase the minimum acceptable score for the passage of the EPPP for licensure as a psychological associate making it the same minimum acceptable score for licensure as a psychologist, see former 22 Tex. Admin. Code § 463.14, now 463.31, published in the December 15, 2017, issue of the *Texas Register* (42 TexReg 7159). When the Board previously proposed and adopted the rule changes that increased the minimum acceptable EPPP score for licensure as a psychological associate the Board made this change in conjunction with the rule changes that allowed licensed psychological associates to qualify for independent practice status. The Board determined that all individuals that obtain licensure as a psychological associate may apply for independent practice status once the requisite number of supervised hours of experience are obtained. Further, the Board determined that the appropriate minimum acceptable score for the passage of the EPPP for such licensees needed to be increased to ensure safe and competent psychological practitioners. Council staff has no reason to believe that the Board's determination regarding the appropriate minimum acceptable score for the passage of the EPPP has changed, therefore staff declines to amend the rule as requested and therefore must deny your petition for rulemaking.

Respectfully,

A handwritten signature in blue ink, appearing to read 'P Hyde', is written over a light blue rectangular background.

Patrick Hyde
General Counsel

Texas Register

TITLE 22	EXAMINING BOARDS
PART 21	TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 463	APPLICATIONS AND EXAMINATIONS
SUBCHAPTER B	LICENSING REQUIREMENTS
RULE §463.8	Licensed Psychological Associate
ISSUE	03/31/2023
ACTION	Proposed

Preamble

Texas Admin Code Rule

(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 or under the supervision of an individual that holds a license as a specialist in school psychology;

(3)pass all examinations required by the Council and meet each of the criteria listed in §501.2525(a)(3)-(9) [~~§501.2525(a)(2)-(9)~~] of the Occupations Code; and

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

(A)Psychological Foundations:

(i)the biological bases of behavior;

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

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

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

(B)Research and Statistics:

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

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

(C)Applied Psychology:

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

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

(D)Assessment:

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

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

(E)Interventions:

(i)the application of therapeutic techniques;

(ii)behavior management;

(iii)consultation; and

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

(b)Degree Requirements.

(1)For purposes of this rule:

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

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

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

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

(3)Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(2) and [(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 of this title. ~~[(relating to Competency)].~~

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

(5) Applicants licensed as specialists in school psychology or as a provisionally licensed psychologist 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.]~~

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

~~(e)~~[(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.

~~(f)~~[(g)] Continuation of Prior Law.

(1) Notwithstanding subsection (b)(2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a)(1) of this section, shall be considered to have met the requirements of subsection (b)(2) of this section if the individual has completed 42 semester credit hours.

(2) 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 to meet the requirement of subsection (f)(1) of this section.

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

~~[(2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.]~~

(g) Remedy for Incomplete Licensure Requirements.

(1) An applicant who has completed a graduate degree in psychology, from a regionally accredited institution of higher education, that consists of at least sixty (60) semester credit hours, is currently licensed as an LSSP, or meets the requirements of subsection (f) of this section, and who does not meet all of the qualifications for licensure set out in subsection (a)(2) and (4) of this section may petition for permission to remediate an area of deficiency. An applicant may not petition for the waiver or modification of the requisite degree or passage of the requisite examinations.

(2) The Council may allow an applicant to remediate a deficiency identified in paragraph (1) of this subsection if the applicant can demonstrate:

(A)the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and

(B)the remediation would not adversely affect the public welfare.

(3)The Council may approve or deny a petition under this subsection, 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 as a licensed psychological associate.

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

Filed with the Office of the Secretary of State on March 20, 2023

TRD-202301105

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 30, 2023

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

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Texas Register Preamble

The Texas Behavioral Health Executive Council proposes amendments to §463.8, relating to Licensed Psychological Associate.

Overview and Explanation of the Proposed Rule. The proposed amendments correct typographical errors in subsections (a)(3), (b)(3), and (c)(3). The proposed amendment to subsection (a)(2) will allow for the supervised experience from an internship, practicum, or the like to count towards licensure if it is obtained under an individual licensed as an LSSP, instead of only under the supervision of a psychologist. Subsection (c) (5) has been amended to allow a provisionally licensed psychologist to count supervision hours obtained towards the independent practice requirements as an LPA. Subsection (d) has been deleted to correspond with changes made to §463.11, which deletes the gap requirements for when supervised experience was obtained and when an application was submitted. Subsection (f) extends a grandfathering provision for degrees in psychology that began before August 31, 2019. And subsection (g) creates a way for applicants with deficiencies to petition to remediate certain areas of deficiency.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is 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 rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does 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 rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule 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 rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is 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 rule 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 rule 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 rule does 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 rule is 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 rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does 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 rule. 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 rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

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

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

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

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

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

2024 Fiscal YR	Sept 2023	Oct	Nov	Dec	Jan 2024	Feb	Mar	Apr	May	Jun	Jul	Aug 2024	Schedule Status
Council		24				20				25			<i>approved, Tuesdays</i>
PSY	14 or 21				11 or 18			4 or 11					<i>tentative, Thursdays</i>
LPC		13				2				7			<i>tentative, Fridays</i>
SW		6			5				3				<i>tentative, Fridays</i>
MFT	29				9					14			<i>approved, Fridays</i>

2025 Fiscal YR	Sept 2024	Oct	Nov	Dec	Jan 2025	Feb	Mar	Apr	May	Jun	Jul	Aug 2025	Schedule Status
Council		22				18				24			<i>approved, Tuesdays</i>
PSY	12 or 19				16 or 23			3 or 10					<i>tentative, Thursdays</i>
LPC		11			31					6			<i>tentative, Fridays</i>
SW		4			3				2				<i>tentative, Fridays</i>
MFT	27					14				13			<i>approved, Fridays</i>



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 1, 2023

Mr. Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
1801 Congress Avenue, Suite 7.300
Austin, Texas 78701

Opinion No. KP-0443

Re: Authority of the Texas Behavioral Health Executive Council to amend 22 Texas Administrative Code section 465.38(d) regarding the title of an individual holding a specialist in school psychology license (RQ-0483-KP)

Dear Mr. Spinks:

You ask about the authority of the Texas Behavioral Health Executive Council (“Council”) to amend an administrative rule to allow a licensed specialist in school psychology or an LSSP to use an alternate title.¹

You explain that Occupations Code subsection 501.260(a) requires a license for a licensed specialist in school psychology or “LSSP,” and that the LSSP license “is the appropriate credential for a person who provides psychological services as required by [s]ection 21.003(b) of the Education Code.”² Request Letter at 1. You state that an LSSP licensee has previously been permitted to use only the title Licensed Specialist in School Psychology or LSSP, but that nationally such a licensee is typically known as a school psychologist. *See id.* You tell us the Council has received comments that the title LSSP is confusing because it is unfamiliar, unlike the title school psychologist. *Id.* at 2. You point out that Education Code subsection 21.003(b) does not “use or recognize the title LSSP.” *Id.* at 1; *see also supra* note 2. You tell us the “purpose for this proposed rule change is to help address the public’s confusion regarding this license type, so the public can better understand and recognize[] who they are and what activities they are licensed

¹See Letter from Darrel D. Spinks, Ex. Dir., Tex. Behavioral Health Exec. Council, to Honorable Ken Paxton, Tex. Att’y Gen. at 1–2 (Nov. 1, 2022), <https://texasattorneygeneral.gov/sites/default/files/request-files/request/2022/RQ0483KP.pdf> (“Request Letter”); *see also* TEX. OCC. CODE § 501.260(a) (requiring a license for a licensed specialist in school psychology).

²Education Code subsection 21.003(b) provides that a person may not be employed by a school district as a “school psychologist . . . unless the person is licensed by the state agency that licenses that profession and may perform specific services within th[at] profession for a school district only if the person holds the appropriate credential from the appropriate state agency.” TEX. EDUC. CODE § 21.003(b).

to perform.” Request Letter at 2. You identify the following underlined language as a proposed amendment to the relevant administrative rule:

- (d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology ~~or (LSSP), or the individual may use the title~~ School Psychologist or Licensed School Psychologist as referenced in Section 21.003 of the Education Code. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

Id. at 1 (referring to 22 TEX. ADMIN. CODE § 465.38(d) (2023) (Tex. Behav. Health Exec. Council, Psychological Services for Schools).

Council’s Rulemaking Authority

An administrative agency may adopt only those rules that are authorized by and consistent with its statutory authority. *See Railroad Comm’n of Tex. v. Lone Star Gas Co.*, 844 S.W.2d 679, 685 (Tex. 1992). Such authority may be either expressly conferred by statute or implied from other powers and duties given or imposed by statute. *See id.*

Occupations Code chapter 507 provides for the Council as an umbrella entity over several behavioral health professions.³ *See generally* TEX. OCC. CODE §§ 507.001–.404 (establishing and governing the Council). Relevant here, chapter 507 authorizes the Council to administer and enforce Occupations Code chapter 501, the Psychologists’ Licensing Act (“Act”). *See id.* §§ 507.151, 501.001. The Council has express authority to “adopt rules as necessary to perform its duties and implement [chapter 507].”⁴ *Id.* § 507.152.

Relevant to your question, the Act defines a “[l]icensed specialist in school psychology” as “a person who holds a license to engage in the practice of psychology [issued] under Section 501.260.” *Id.* § 501.002(2). In addition to the general rulemaking authority granted the Council in chapter 507, section 501.260 directs that the Council “by rule shall issue a license to a licensed specialist in school psychology. A license issued under this section constitutes the appropriate credential for a person who provides psychological services as required by [s]ection 21.003(b), Education Code.” *Id.* § 501.260(a); *see supra* note 2. To the extent the proposed rule is necessary

³*See* Tex. Att’y Gen. Op. No. KP-0426 (2023) at 1 (“In 2019, the Legislature created the Council to consolidate the regulation and administration of four behavioral health professions: the Marriage and Family Therapists, Professional Counselors, Social Worker Examiners, and Psychologists.”).

⁴To the extent the rule you propose here implicates Occupations Code section 507.153, the rule must first be proposed by the Texas State Board of Examiners of Psychologists. *See* TEX. OCC. CODE § 507.153(a) (authorizing the Council to adopt rules relating to certain matters only if the “rule has been proposed by the applicable board for the profession”); *see also id.* § 501.1515 (requiring the examining board for psychologists to propose rules on certain matters to the Council); Tex. Att’y Gen. Op. No. KP-0426 (2023) at 3 (discussing the Council’s rulemaking authority under section 507.153).

for the Council to perform its duties to administer and enforce the Act, it is within the Council's rulemaking authority under chapters 507 and 501.

Proposed Rule Must be in Harmony with the Act

In deciding whether a particular administrative agency has exceeded its rulemaking powers, the determinative factor is whether the rule's provisions are "in harmony" with the general objectives of the statute involved. *Gerst v. Oak Cliff Sav. & Loan Ass'n*, 432 S.W.2d 702, 706 (Tex. 1968). Whether a rule is "'in harmony' with the general objectives of the legislation involved is a question of law determined through statutory construction." *Gulf Coast Coal. of Cities v. Pub. Util. Comm'n*, 161 S.W.3d 706, 712 (Tex. App.—Austin 2005, no pet.). A challenger seeking to show a rule is not in harmony with the objectives of the statute must show that the rule: "(1) contravenes specific statutory language; (2) runs counter to the general objectives of the statute; or (3) imposes additional burdens, conditions, or restrictions in excess of or inconsistent with the relevant statutory provisions." *Tex. Bd. of Chiropractic Exam'rs v. Tex. Med. Ass'n*, 616 S.W.3d 558, 569 (Tex. 2021) (quoting *Tex. State Bd. of Exam'rs of Marriage & Fam. Therapists v. Tex. Med. Ass'n*, 511 S.W.3d 28, 33 (Tex. 2017)).

Proposed Rule Does Not Contravene the Act

By its plain terms, section 501.260 requires the Council to issue a license and deems that license to be the appropriate credential for the employment of "a person who provides psychological services as required by [s]ection 21.003(b), Education Code." TEX. OCC. CODE § 501.260(a). While subsection 501.260(a) contains no language relating to the title used by the person holding the license or credential it points to Education Code subsection 21.003(b), which does specify the titles of employment. *See* TEX. EDUC. CODE § 21.003(b) (identifying a "school psychologist" and an "associate school psychologist"). A rule proposing a title of school psychologist is not contrary to Education Code subsection 21.003(b).

Additionally, the common meaning of "license" is "a permit from an authority to . . . do a particular thing, or carry on a trade." NEW OXFORD AMERICAN DICTIONARY 1007 (3d ed. 2010); *see also Sunstate Equip. Co., LLC v. Hegar*, 601 S.W.3d 685, 697–98 (Tex. 2020) (applying the common meaning to undefined statutory terms and consulting the dictionary for the common meaning). A "credential" commonly means "a document or certificate proving a person's identity or qualifications." NEW OXFORD AMERICAN DICTIONARY 406 (3d ed. 2010). By contrast, a "title" commonly means "a name that describes someone's position or job." *Id.* at 1819. In using the terms "license" and "credential" in section 501.260 instead of a title, the Legislature addressed a person's authority to practice and the document establishing a person's authority to practice, but it did not in subsection 501.260(a) speak to the particular title that a person could or could not use. A court would likely conclude the proposed amendment does not contravene the language of Occupations Code subsection 501.260(a).

Proposed Rule Does Not Run Counter to the Statute's Objectives or Impose Additional Burdens

We next consider whether the proposed rule is counter to the general objectives of the Act. Subsection 501.003(b) expressly addresses the use of a title. *See* TEX. OCC. CODE § 501.003(b)(1).

It provides that representations “to the public by a title or description of services that includes the word ‘psychological,’ ‘psychologist,’ or ‘psychology’” constitute the practice of psychology. *Id.* The statutory definition of an LSSP acknowledges that a person licensed as an LSSP is engaged in the practice of psychology. *Id.* § 501.002(2) (defining an LSSP as one “engage[d] in the practice of psychology under [s]ection 501.260”). Thus, as the LSSP licensee holds a license under chapter 501, nothing in the chapter operates to prohibit a licensed person from using the term psychologist as part of the title “school psychologist” or “licensed school psychologist.” *See* Request Letter at 1–2; *see also* Tex. Att’y Gen. Op. No. GA-0897 (2011) at 2–3 (concluding that an LSSP’s use of a valid Nationally Certified School Psychologist credential is neither false nor misleading or deceptive provided the person’s practice is limited to school psychology). Moreover, the Legislature knows how to but did not specify a particular title for an LSSP or otherwise limit the Council’s authority to specify a title for an LSSP in subsection 501.260(a). *See* TEX. OCC. CODE § 501.260(a); *cf. id.* §§ 501.259(b), 505.303(c)(1).

In addition to providing for the license and credential of an LSSP, section 501.260 also requires that the Council’s “rules of practice for a licensed specialist in school psychology . . . comply with nationally recognized standards for the practice of school psychology.” *Id.* § 501.260(c). In this provision, the Legislature incorporates nationally recognized standards. *See id.* We understand that those standards “allow for the use of the title ‘school psychologist’ for those professionals who meet the [National Association of School Psychologists] training standards.”⁵

The proposed rule allowing an LSSP to use the title School Psychologist or Licensed School Psychologist does not contravene chapter 501 as it relates to an LSSP.

Lastly, the proposed rule does not impose additional burdens, conditions, or restrictions on an LSSP in addition to the requirements of the Act. *See generally* Tex. Bd. of Chiropractic Exam’rs., 616 S.W.3d at 569 (noting that this last element is not relevant where a challenger argues an agency rule is too permissive).

Conclusion

As noted previously, the general objective of the Act is to ensure a person engaging in the practice of psychology has the necessary qualifications for licensure and does not mislead the public. *See* Tex. Ass’n of Psychological Assocs., 439 S.W.3d at 603. And with respect to an LSSP, the Act’s objective is to provide for a license and credential, as well as establish the required qualifications, for a person engaging in psychology in school employment. A change in title such as you propose is not contrary to those objectives. Moreover, it does not contravene specific statutory authority and does not impose additional burdens, conditions, or restrictions. Accordingly, a court would likely conclude the proposed rule is in harmony with the Act and thus is within the Council’s rulemaking authority.

⁵Letter from the Tex. Ass’n of Sch. Psychologists, to Honorable Ken Paxton, Tex. Att’y Gen., Op. Comm. at 2 (Dec 19, 2022) (on file with the Op. Comm.).

S U M M A R Y

Occupations Code subsection 501.260(a) requires the Texas Behavioral Health Executive Council to “by rule . . . issue a license to a licensed specialist in school psychology.” A proposed administrative rule that permits a licensed specialist in school psychology to use the title School Psychologist or Licensed School Psychologist does not contravene specific statutory authority, is not contrary to the general objectives of Occupations Code chapter 501, and does not impose additional burdens, conditions, or restrictions. A court would likely conclude the proposed rule is in harmony with chapter 501’s objectives and thus within the Council’s authority to adopt.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

K E N P A X T O N
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

LESLEY FRENCH
Chief of Staff

D. FORREST BRUMBAUGH
Deputy Attorney General for Legal Counsel

AUSTIN KINGHORN
Chair, Opinion Committee

CHARLOTTE M. HARPER
Assistant Attorney General, Opinion Committee